

CHAPTER 5: GOVERNMENT POLICIES AND ACTIONS

PRESIDENTS NIXON, FORD, CARTER AND REAGAN

As part of its effort to conduct the most thorough investigation possible, the Select Committee asked former Presidents Richard Nixon, Gerald Ford, Jimmy Carter and Ronald Reagan to grant the Committee access to POW/MIA-related materials in their Presidential libraries and to submit to formal depositions regarding the handling of POW/MIA-related issues during their administrations. The Committee recognized that the doctrine of Executive Privilege applied to former administrations, but hoped that the former Presidents, realizing the volatility of the issue, would agree to waive the privilege. Because of unique concerns about Executive Privilege and the Constitutional separation of powers, the Committee did not make the same requests of President Bush.

All four former Presidents granted the Select Committee access to relevant materials in their Presidential libraries, but none provided a sworn deposition. The Committee chose not to attempt to challenge any claims of Executive Privilege and not to attempt to compel the former Presidents' testimony. The Committee attempted to negotiate less formal arrangements for obtaining the former Presidents' views on points important to the investigation.

These negotiations resulted in several different arrangements. President Ford agreed to meet informally with Chairman Kerry and Vice Chairman Smith. Presidents Nixon and Carter declined to meet in person with members or staff of the Committee, but agreed to provide signed, written answers to written questions. Only President Reagan declined to answer the Select Committee's questions in any form or setting.

²²⁴ J. Lawrence Wright, Attorney Affidavit, Aug. 19, 1992.

The questions posed to Presidents Nixon and Carter, along with the answers provided, are reproduced in full in the appendix. The informal meeting between Senators Kerry and Smith and President Ford will be scheduled as soon as all parties can meet.

DECLASSIFICATION

Overview

From its inception, the Committee recognized that a successful investigation of the POW/MIA issue could not stop at searching for or even obtaining—answers: to ensure that the American people could have faith that the investigation was comprehensive, it would be necessary to give the American people the documents and other information they need to reach their own conclusions.

At the same time, the Committee had to identify and obtain all relevant POW/MIA information, to burrow through the mountain of paper toward answers, to put those with information on record and pursue the leads they suggested before stories were squared among witnesses or information disappeared. The Committee's first priority was to examine any evidence of live Americans; its second was to lay out for all Americans the evidence to let them judge its merits for themselves.

In the past, the classification of most POW/MIA documents had incurred public distrust and hampered the ability of Congress to exercise its oversight responsibilities and the public's ability to understand the actions behind the words "highest national priority." This stalemate has lasted nearly 30 years in the case of Vietnam War POW/MIA information, and longer for Korean War and World War II documents which remain a secret even from the POW/MIA families.

To ensure that it could meet its two-pronged goals, the Committee first sought to reduce the amount of information withheld on national security grounds and then to find ways to expeditiously declassify and release to the public as much of that information as possible.

To get all essential materials declassified, the Committee agreed that some secrets must be kept: the names of intelligence sources who may be needed for information in the future; the methods the U.S. employs to gather intelligence; and materials generated as policy makers debate options. No other country in the world discloses these secrets—or as much as the U.S. is disclosing by declassifying the vast majority of its POW/MIA documents.

The Committee's commitment to full public disclosure was referred to frequently in many of the Committee's hearings, including in June 1992:

There is no disagreement between Senator Smith and me whatsoever as to the direction of this committee or what we will do with respect to information. Senator Smith and I have announced since the inception of this committee that we will seek full declassification of all material relevant to this issue and that it will take a major showing of national security concern in order to prevent us from seeking that declassification of material now 20 or more years old. We have been in touch with various par-

ties and we have gotten much of that. And we appreciate the cooperation. I might add that the Defense Department, the State Department, and the National Security Council have provided to this committee documents that have never before been viewed with respect to this issue.

Both Senator Smith and I believe that we could still do better. Both of us believe that there are procedures in place that could be simplified, and both of us believe that the agencies of our Government could frankly be more forthcoming by dumping it on our doorstep rather than waiting for us to have to request it and go through a tug of war.²⁸⁵

In all, the Committee sent nearly 500 individual requests for information and obtained and reviewed millions of pages of documents from scores of U.S. agencies, offices, and other sources. These unprecedented steps were taken to assure that all that can be done to get the American public answers is being done, and that as much information as possible about the POW/MIA issue is available to POW/MIA families and others.

The Committee believes that its legacy will be that it removed the shroud of secrecy which for too long has hidden information about POW/MIAs from public scrutiny. The Committee's Members believe that this legacy should become an enduring one, and that secrecy never again becomes the watchword of U.S. accounting for POW/MIAs.

Existing law: Executive Order 12536

When the Committee started its work, there was little evidence that DoD, the armed services, or any Government agency or department was systematically reviewing classified POW/MIA related information with a view towards determining whether that information should be given to families. This apparent government-wide failure to even consider declassifying POW/MIA information was inconsistent with the requirements of Executive Order 12536, in effect since April 1982:

This Order prescribes a uniform system for classifying, declassifying and safeguarding national security information. It recognizes that it is essential that the public be informed concerning the activities of its government, but that the interests of the United States and its citizens require that certain information concerning the national defense and foreign relations be protected against unauthorized disclosure. Information may not be classified under this Order unless its disclosure reasonably could be expected to cause damage to the national security.

The Executive Order specifically limits how classifications are applied:

In no case shall information be classified in order to conceal violations of law, inefficiency, or administrative error; to prevent embarrassment to a person, organization, or

²⁸⁵ Kerrey, June 24, 1992.

agency; to restrain competition; or to prevent or delay the release of information that does not require protection in the interest of national security.

Information shall be declassified or downgraded as soon as national security considerations permit.²⁸⁶

The fact that the relevant POW/MIA related documents were classified did not prevent the Committee from obtaining them, however, either in redacted form (with portions blacked out) or in their entirety. In virtually all instances, the portions redacted protected intelligence "sources" or "methods" from being identified, a longstanding practice the Committee recognizes as valid. In a few instances, the redacted information concerned deliberative processes which the agencies sought to protect in order to assure that its personnel would not be inhibited in discussing the pros and cons of various policies.

Prior disclosure efforts

In 1988, then-Congressman Bob Smith introduced legislation requiring the declassification of POW/MIA records. That effort was incorporated in an amendment to the Intelligence Authorization Act for FY 1989 which codified into law the DOD's responsibility to provide to POW/MIA families any information "which potentially correlated to their missing loved ones."

In 1990, Congressman Smith introduced legislation ("the Truth bill"), co-sponsored by more than 200 Members of the House of Representatives, to require the release of all POW/MIA information, including live-sighting reports, unless a determination was made that the release of a particular report would jeopardize the safe return of any American still held, or would invade the privacy of a primary next of kin. Due to time constraints, no action on this legislation was taken by the 101st Congress.

A day before the Committee was created, the Defense Authorization Act of 1991 was signed into law. This measure included an amendment sponsored by Sen. John McCain that requires the Secretary of Defense to declassify live-sighting reports or other information in DOD's custody about the location, treatment, or condition of any Vietnam-era POW/MIA. It also requires that the declassified information be made available in a suitable library-like location within the Washington, D.C. area for public review and photocopying. A second library for families' use also will be established. McCain's amendment protects families' privacy rights, which reserve information correlated to a serviceman for his family's use.

Senate Joint Resolution 125

The Committee's widely shared concern about the declassification issue next was reflected in Senate Joint Resolution 125, which memorialized Congress' intent to enact legislation directing federal departments and agencies to make public, information relating to POWs or MIAs from World War II, the Korean Conflict, and the Vietnam Conflict. It also directed DoD to make a list of all people so

²⁸⁶ Executive Order 12356, April 2, 1982.

classified. The joint resolution was agreed to by the Senate on February 11, 1992 and by the House of Representatives on February 26, 1992.

Committee task force on declassification

As the Committee's investigative efforts intensified, it recognized the need to press harder for declassification. In May 1992, the Committee established a Task Force on Declassification, headed by Senators Robb and Grassley to identify the POW/MIA documents needing declassification, prioritize them, and propose a schedule for their public release at the earliest possible date.

The Task Force interviewed CDO representatives and learned that CDO's initial intention was to declassify live-sighting reports first, and then, if approval by POW/MIA families was granted, declassify some DLA and JCRC casualty files; that was the limit of CDO's declassification authority. On May 13, 1992, DoD transferred 641 declassified live sighting reports to the Library of Congress in Washington, D.C. which began indexing the reports for use by the public. Following initial review of its files of live-sighting reports, DoD indicated to the Committee that approximately 1,600 first-hand live-sighting reports, and approximately 2,700 hearsay reports would be declassified by early fall 1992.

The Task Force believed that declassification should go further and be done by other agencies as well—to the Defense Intelligence Agency, the National Security Agency, the Service Intelligence Agencies, the Joint Chiefs of Staff, the Central Intelligence Agency, the National Security Council, and the State Department among them. The Committee planned to include all of its own documents in the National Archives, but the use of classified materials in depositions and interrogatories required an additional effort to declassify those depositions and interrogatories.

On July 1, 1992, Senators Robb and Grassley recommended, and the Committee unanimously agreed to:

Transmit a letter to the President requesting expeditious declassification of POW/MIA records from the Vietnam War;

Direct the Chairman to introduce a resolution to the full Senate on declassifying POW/MIAs;

Reconvene a Committee meeting within a month to evaluate progress and consider initiating alternative formal declassification means.

Senate Resolution 400

The Committee's alternative was contained in Senate Resolution 400, adopted May 19, 1976. This never-before-tried avenue established the authority for the Senate to declassify, on its own initiative, information in its possession:

SEC. 8. (a) The select committee may, subject to the provisions of this section, disclose publicly any information in the possession of such committee after a determination by such committee that the public interest would be served by such disclosure. Whenever committee action is required to disclose any information under this section, the committee shall meet to vote on the matter within five days after any

member of the committee requests such a vote. No member of the select committee shall disclose any information, the disclosure of which requires a committee vote, prior to a vote by the committee on the question of the disclosure of such information or after such vote except in accordance with this section.

(b) (1) In any case in which the select committee votes to disclose publicly any information which has been classified under established security procedures, which has been submitted to it by the executive branch, and which the executive branch requests be kept secret, such committee shall notify the President of such vote.

(2) The select committee may disclose publicly such information after the expiration of a five-day period following the day on which notice of such vote is transmitted to the President, unless, prior to the expiration of such five-day period, the President notifies the committee that he objects to the disclosure of such information, provides his reasons therefor, and certifies that the threat to the national interest of the United States posed by such disclosure is vital and outweighs any public interest in the disclosure.

(3) If the President notifies the select committee of his objections to the disclosure of such information as provided in paragraph (2), such committee may, by majority vote, refer the question of the disclosure of such information to the Senate for consideration. such information shall not thereafter be publicly disclosed without leave of the Senate.

(4) Whenever the select committee votes to refer the question of disclosure of any information to the Senate under paragraph (3), the chairman shall, not later than the first day on which the Senate is in session following the day on which the vote occurs, report the matter to the Senate for its consideration.

The primary drawbacks with S.R. 400 were:

That it had not been tested;

It required the material to be identified in advance—requiring the Committee to know exactly what it sought, rather than getting a wholesale declassification that may have produced documents whose existence was unknown;

Only the materials in the Senate's possession could be declassified; and

Putting the law into effect would require a vote of the full Senate.

Thus, the Committee tried to obtain a wholesale declassification by asking the President for an executive order.

Members' letter to President Bush

To appeal for the best help in getting full declassification—by enlisting the aid of the Commander-in-Chief—the Committee sent a letter to President Bush on July 1, 1992. It stated, in relevant part:

We are writing to request that you issue an executive order to declassify and publicly release all documents, files, and other materials in the government's possession that relate to American POWs or MIAs lost in Southeast Asia.

Mistrust and suspicion of the government's role and actions on POW/MIA matters through the years have hindered efforts to resolve questions related to our lost American servicemen, and we believe declassifying documents will begin to provide POW/MIA families the answers they need and deserve.

Pursuant to Section 1082 of the FY 1992-1993 National Defense Authorization Act, the Defense Department has begun to declassify certain documents, but the effort targets only a fraction of POW/MIA materials in the government's possession. We believe it is in the interests of all those concerned to achieve much broader declassification, and have attached a list of documents that encompasses the full range of information that we believe should be released as expeditiously as possible. We reserve the right to add to our request should we desire additional documents needed to complete our investigation.

We understand that for reasons of national security, some materials to be released to the public require redaction. However, our investigation has convinced us that the vast majority of materials related to the POW/MIA issue now protected by the National Security Classification System could be released to the public in full with absolutely no harm or risk to national security or to the families' right to privacy. . . .²⁸⁷

Among the documents the Committee sought were the papers of Henry Kissinger, former Presidents Nixon Ford, Carter, Reagan and President Bush, WSAG minutes and other materials, live-sighting and other reports, casualty files (except as protected by families' right to privacy), DIA's historical, current, and intelligence files, the files of top Administration officials, including former Secretaries of Defense Caspar Weinberger and Frank Carlucci, wartime and post-war NSA product reports, service intelligence files, imagery files, and documents from the Joint Chiefs of Staff, CIA, NSC, and State Department.²⁸⁸ The list was a starting point, Sen. Grassley explained in a statement to the full Senate:

This list is by no means meant to be finite. During the course of further investigation, we may discover additional batches of documents that are as yet unknown to us. If so, we intend to identify those documents and communicate our desire to add them to the list. Our objective in creating the list was to be as specific as possible in defining the universe of documents to be declassified, yet general enough to avoid precluding newly discovered documents from declassification.²⁸⁹

²⁸⁷ July 1, 1992 letter to President Bush.

²⁸⁸ Attachment to Bush letter.

²⁸⁹ Grassley floor statement, July 2, 1992.

Senate Resolution 324

While the National League of Families condemned the move, response from POW/MIA families was overwhelmingly to demonstrate the support for declassification that the Committee believed was widespread, it also sought the backing of the full Senate for its efforts. On July 2, 1992, Senators Robb and Grassley introduced Senate Resolution 324 which provided, in pertinent part:

It is the sense of the Senate that the President of the United States expeditiously issue an Executive Order requiring all Executive Branch departments and agencies to declassify and publicly release without compromising U.S. national security all documents, files, and other materials pertaining to POWs and MIAs.²⁹⁰

In introducing the resolution, Sen. Grassley stated:

... The reasons this committee, indeed the public and, I believe the Senate support this request for declassification are self-evident. Mystery and suspicion have shrouded this issue from Day One. National security secrecy merely feeds the suspicion.

Let there be no doubt—in adopting this resolution, the Senate is firmly committing itself, in the public interest, to full, public disclosure of all documents, safeguarding only legitimate risks to national security and families' right to privacy.²⁹¹

By a unanimous vote of 96-0, the Senate agreed to the resolution. The Committee kept up the pressure to have relevant documents declassified, sending one of many letters to the Executive Branch.²⁹² The letter set forth a timetable and a priority schedule, to be fully implemented—and all requested documents declassified—by Oct. 31, 1992.

Executive Order 12812

President Bush lent his support to efforts to have declassify POW/MIA documents on July 22, 1992, as set forth in relevant part below:

... by the authority vested in me as President by the Constitution and the laws of the United States of America, I hereby order as follows:

SECTION 1. All executive departments and agencies shall expeditiously review all documents, files, and other materials pertaining to American POWs and MIAs lost in Southeast Asia for the purposes of declassification in accordance with the standards and procedures of Executive Order No. 12356.

SEC. 2. All executive departments and agencies shall make publicly available documents, files, and other materials declassified pursuant to section 1, except for those the

²⁹⁰ SR 324.

²⁹¹ *Ibid.*

²⁹² July 9, 1992 letter to the President's Deputy Legal Adviser and Special Assistant for National Security Affairs.

disclosure of which would constitute a clearly unwarranted invasion of personal privacy or returnees, family members or POWs and MIAs, or other persons, or would impair the deliberative processes of the executive branch.²⁹³

Central Document Office

In December 1991, recognizing the scope of the Committee's intended inquiry and in order to comply with the provisions of the McCain Amendment, Defense Secretary Cheney created the POW/MIA Central Document Office (CDO) under the Assistance Secretary of Defense Command Control, Communications and Intelligence.

In compliance with Executive Order 12812, departments and agencies have begun the task of reviewing and declassifying, to the fullest extent possible, all documents, files, and other materials pertaining to American POWs and MIAs lost in Southeast Asia. CDO, which has coordinated most, but not all, of the declassification efforts; a November 1992 progress report detailed its accomplishments:

1. Responded to over 400 written Committee requests for records, documents, files, lists, memoranda, briefings, notes, summaries, and other material. Served as liaison between the Committee and various DoD agencies in scheduling depositions and arranging for witnesses at hearings.

2. Organized, trained, and equipped a staff of over 70 military and civilian personnel to redact and declassify Vietnam-era records and other material requested by the Committee.

3. Expended over \$2,000,000 in purchased services, supplies, maintenance, and utilities and rents (not including the salaries of over 70 DoD military and civilian personnel). Specifically,

- a. Over 3,000,000 pages of copy paper and seven copying machines

- b. Over 28,800 rolls of correction tape used to redact sensitive intelligence sources and methods. (If laid end to end, this tape would extend over 318 miles, or almost five times around Washington's beltway.)

4. Driven over 7,000 miles in the Washington metropolitan area retrieving documents from over 20 archival storage sites and delivering specifically requested documents to the Committee.

5. Declassified over 60 depositions taken by Committee investigators to support open hearings and related activities including coordinating with external agencies to declassify non-DoD material.

6. Made available for committee review an estimated 1.5 million pages of Vietnam-era records. Established an "on call" delivery and courier service for the Committee staff, delivering to the Committee offices 100-200 files daily, pro-

²⁹³ Executive Order, "Declassification and Release of Materials Pertaining to Prisoners of War and Missing in Action."

vided trained personnel to redact "on the spot" sensitive intelligence to facilitate the Committee's investigation.

7. Served as the focal point to coordinate declassification of documents which contained multiple agency equities, including those of the Department of State, Central Intelligence Agency, National Security Agency, National Security Council, Federal Bureau of Investigation, and the Defense Intelligence Agency. . . .²⁹⁴

On Dec. 1, 1992, the DoD issued its mid-course review of CDO project. Portions of its report are set forth below:

The task set by Congress required that the CDO:

- (1) Task Defense components for documents and supporting analysis;
- (2) Locate, retrieve and consolidate records pertaining to Vietnam-era POW/MIAs;
- (3) Redact classified records, when required to protect sensitive sources and methods, prior to transfer to Congress;
- (4) Prepare documents for public repository, and
- (5) Serve as the focal point to respond to [Committee] requests for specific Vietnam-era POW/MIA related documents.

In practice, the CDO devoted extraordinary amount of time, effort, and resources to support the [Committee]. On a typical day, the CDO simultaneously

Supported Committee investigators' review of classified files in CDO spaces;

Transported classified files to the Office of Senate Security in the Capitol;

Redacted files for Committee investigators on-the-spot in the Office of Senate Security;

Delivered as many as 40,000 pages of declassified material to the Committee offices for investigators to review;

Located, retrieved, and transported from local area archival storage facilities specific files requested by the Committee; and

Answered literally dozens of Committee and investigator questions by telephone or fax. The committee submitted daily to the CDO as many as ten letters requesting information. Each letter contained up to 50 separate requests for documents, lists, printouts, notes, minutes, and other forms of record material. The CDO has answered over 400 Committee letters requesting information by retrieving information from DoD sources at all levels and making it available to the Committee.

The Committee held eight sets of multiple-day hearings on POW/MIA related subjects during 1992. It frequently tasked the CDO, most often on short notice, to declassify hundreds of pages of specific reports to support these hearings.

The CDO reviewed for declassification over 60 Committee depositions of up to 250 pages each. Materials submitted by the Committee for declassification often required multiple government agency

²⁹⁴ Attachment to Andrews letter, November —, 1992.

review of each document, including the Central Intelligence Agency, and Department of State. The Committee encountered difficulty in obtaining timely, multiple reviews and requested that the CDO serve as the government-wide focal point for coordinating this multi-agency review process. The CDO coordinated and completed all requested reviews, including the weekend delivery of declassified depositions to former Cabinet officials.

The CDO also reviewed for declassification numerous documents the Committee requested which were originated by non-DoD agencies but reflected DoD equities. These included such organizations as the Central Intelligence Agency, National Security Council, State Department, Federal Bureau of Investigation and Drug Enforcement Agency. This material is conservatively estimated at 10,000 pages.²⁹⁵

According to the CDO review, DoD's obligations under the McCain Amendment suffered; at publication time, roughly one-sixth of the work due by November 1994 is complete. The review detailed progress on its McCain-Amendment duties:

Simultaneously, and in response to the disclosure requirement in Section 1082 of the National Defense Authorization Act, the CDO provided over 100,000 pages of declassified material to the Federal Research Division of the Library of Congress to be indexed and microfilmed for access by the public. The pace and volume of work accelerated in July when the President directed, by Executive Order 12812, that all records pertaining to Vietnam-era POW/MIA's be reviewed for declassification. This order enlarged the volume of material to be reviewed for declassification and public release to any estimated 1.5 million pages.

As a result of the heavy workload imposed by the [Committee] during late 1991 and 1992, the majority of the original task levied by Congress in Section 1082 remains to be completed.

DIA records include over 17,500 source files from Vietnam, Laos, and Cambodia. To date, the CDO has declassified 1,613 source files (9 percent). The frequent interruptions of source file declassification to support Committee requests have hampered an accurate production estimate on source file declassification.

The second major collection of records covered by Section 1082 are the DIA, service, and Joint Task Force-Full Accounting casualty files. In compliance with Section 1082 family consent requirements, the CDO drafted and coordinated the submission, through the service casualty officers, of letters to the designated next-of-kin of the 2,266 unaccounted for servicemen requesting consent to release to the Library of Congress records pertaining to the servicemen's location, treatment, or condition. To date:

871 (38 percent) have granted consent;

187 (8 percent) have denied consent;

62 (3 percent) have withheld consent; next-of-kin have asked to be provided a completed, declassified file prior to providing a decision granting or denying consent; these files have been

²⁹⁵ Report on CDO, Dec. 1, 1992.

declassified and submitted, through the service casualty officers, to the appropriate next of kin.

No reply has been received from the remaining 1,146 (51 percent); a second follow-up letter has been sent by the service casualty officers as a good-faith effort to elicit a response.

In summary, the CDO has supported the Committee's investigation with a totally unconstrained document location, retrieval, declassification, and delivery (courier) service.

Discussion

The results of the Committee's efforts to declassify POW/MIA information are unparalleled in U.S. history. When the declassification process is complete, well over one million pages of previously classified information will have been made available to the public.

The investigation met significant resistance from certain agencies of the U.S. Government in the release and declassification of the requested materials:

The DIA refused to declassify the "sources" and "methods" which they had used to build up their files. The Committee understood the grounds for not declassifying these materials to the general public since the sources lives could be endangered, information resources compromised or hard-won crypto-analysis work lost. It was less understandable why the DIA refused to disclose the names of sources to appropriately cleared staff of the Committee so the source's story could be checked with the original source.

The CIA initially refused to allow even appropriately cleared members of the Committee staff to review past and current operational files (with the notable exception of a detention camp in Laos). This matter was partially resolved in December when a single selected staff member was allowed to review the files.

CIA officials did not allow the Committee to have access to their Presidential Daily Briefs. Instead, they reviewed the documents themselves for POW content and wrote short summaries of POW related material. These summaries were made available to the Chairman and Vice-Chairman of the Committee. Also, the CIA did not allow Committee investigators to have access to the Executive Registry which are the DCI's personal office files.

The NSC refused to allow anyone but Senators to review the current administration files and limited the review of past administration files to the Staff Director, Chief Counsel and three senior staff members.

The DoD refused to allow anyone but the Chairman and Vice Chairman to review the POW returnee debriefings from 1973. This was in spite of a release that the Committee had obtained from several hundred of the POW returnees involved.

The DoD OSD/ISA initially refused to provide certain current files to the staff of the Committee, but later allowed access. The Committee was disturbed to learn, through internal CDO E-Mail notes, that ISA had intentionally delayed providing files in order to pre-screen them.

The Nixon Archives refused to allow access by the Committee to any of the Watergate tapes that had been requested. Former President Nixon's refusal to allow even the most limited access in the face of repeated requests, letters and entreaties at the highest levels caused the Committee to draw sound unfavorable inferences about the actions of the former President on this issue.

It is unfortunate that the former President had the power to limit the access and frustrate the wishes of a constitutionally created Committee of Congress to what was clearly the best evidence available.

The Committee believes that it has had access to the main materials on POW/MIA issues within the control of the U.S. Government. However, it should be noted that the Committee relied on the good faith compliance of the agencies and departments to its subpoenas and requests. The Committee had neither the ability nor desire to storm into a department or agency and "seize" its files for its review.

In a Government of laws, the Committee relied upon the lawful compliance of the agencies and departments and found its reliance well-founded. The areas listed above illustrate this: where the agency or department would not comply on a good-faith basis, the issue was joined and the department or agency and the Committee resolved it in a manner acceptable to the Committee.

The only significant area of non-compliance occurred with respect to the Watergate tapes, where former President Nixon's attorneys were able to frustrate the desire of the Committee to review the tapes for POW/MIA discussions.

Summary

The declassification effort has opened a substantial body of evidence to public scrutiny, but declassification cannot provide all of the answers. For the U.S. Government and its citizens, the facts contained in these documents require a judgment. The answers are not in the blacked-out portions of some U.S. document; if there are answers, they are in Vietnam, Laos and Cambodia.

PUBLIC AWARENESS CAMPAIGN

The problem of Americans in enemy hands was a visible and painful reminder of the Vietnam War's cost. Uncertainties about the prisoners and missing combined with the numbers who came home in body bags to erode public support for the war.

Vietnam had signed the Geneva Convention governing treatment of prisoners of war. In an apparent attempt to circumvent the Geneva Convention, Americans captured by the Vietnamese were regarded as "international bandits" or "air pirates;" within the prison system, they were referred to as "criminals," the American public learned after Operation Homecoming.

Given Vietnamese rejection of any limit on their treatment of American prisoners, families were prepared to believe stories about abusive treatment of their kin. When the Vietnamese broadcast antiwar statements made by, or attributed to, American prisoners, their cynical manipulation intensified the anger of Americans at

home. Even when Hanoi released Americans in 1968, it sought to manipulate public opinion by releasing the POWs to war protesters instead of to U.S. authorities.

The Nixon administration

When the Nixon Administration took office in 1969, the Vietnam War dominated American politics. Having promised a plan whereby the U.S. could bring the war to a close, the Nixon Administration had to balance international needs against domestic support and questions about the fate of Americans missing in Southeast Asia posed a severe complication—and an opportunity.

The Nixon Administration found one solution for the two related problems—how to gain better treatment for American prisoners, and how to maintain public support for the war until it could be favorably ended—a publicity campaign.

Laird initiative

Two months after Nixon took office in 1969, Defense Secretary Melvin Laird demonstrated the United States' new policy on American prisoners and the U.S. thrust the plight of the prisoners into the public spotlight.

Laird's decision was controversial at the outset. Some critics thought the prisoners would be better served by quiet efforts rather than a public campaign. In this view, shared by Kissinger and Averill Harriman, public criticism would only harden the Vietnamese and Lao positions, and make it harder to negotiate on this and related issues. This position was especially attractive to those who assumed the Vietnam War would be a short one.

Other observers, among them Laird, noted that a quiet approach had not brought positive results yet, and argued that the Vietnamese were using prisoners to manipulate American public opinion. POW/MIA families long had pressed the case for more public support. In late 1966, Sybil Stockdale, wife of Admiral James Stockdale, began organizing meetings among wives of downed pilots. Eventually, they obtained some official attention from DoD. In October 1968, the American media picked up the story of how few letters from prisoners had been allowed out by the Vietnamese—only 623 since the beginning of the war from 108 prisoners.

Laird introduced new attention to POWs publicly on May 19, 1969, by highlighting North Vietnam's refusal to provide a list of prisoners and strongly criticizing their position at a press conference:

I am deeply shocked and disappointed by this cruel response of Hanoi's representative to such a basic request for humanitarian action. Hundreds of American wives, children, and parents continue to live in a tragic state of uncertainty caused by the lack of information concerning the fate of their loved ones. This needless anxiety is caused by the persistent refusal by North Vietnam to release the names of U.S. prisoners of war.

I want to reaffirm the continuing hope that Hanoi will provide a list of American prisoners and permit a free flow of mail between U.S. prisoners of war and their families.

We continue to urge the immediate release of sick and wounded prisoners, the neutral inspection of prisoner of war facilities, and the prompt release of all American prisoners.²⁹⁶

The same month, the Viet Cong put forward a 10-point peace plan stating that prisoner releases would have to be negotiated by the parties to the conflict as a part of the total settlement of the war. Similarly, North Vietnam argued that repatriation of prisoners must wait until the end of hostilities. The U.S. position was consistent with the provisions of the Geneva Accords, although not heavily supported by precedent.

Search for allies

That year, the U.S. Government sought to bring the issue to international attention, including by pressing for United Nations resolutions and action by the Soviet and Chinese Government, allies of—and potential conduits to—the Hanoi Government.

Similarly, the State Department stressed the Geneva Convention on Prisoners of War, generating a debate over North Vietnam's reservations about that Convention. In general, North Vietnam argued that the conflict was not a war, and the Geneva Convention did not apply—an argument not widely accepted by the international community. Hanoi also argued that the prisoners were war criminals, and thus not entitled to the protection of the Geneva Convention.

The Nixon Administration also worked with a variety of private organizations, including the fledgling National League of Families. By the end of the first year, it added an informal partnership with VIVA, which originally supported a policy of victory in Vietnam that had evolved into a POW/MIA awareness promotion. In 1970, DoD also dealt with the Committee of Liaison with Families of Prisoners and Missing (COLIAFAM), which opposed the war but was able to provide for exchange of mail with POWs. By 1972, several regional organization also became devoted to supporting POW/MIAs as anticipations of their seemingly imminent return grew.

H. Ross Perot

In the Fall of 1969, Secretary of the Navy John Warner approached H. Ross Perot to discuss the POW/MIA issue. Perot told Committee investigators that at that time Warner, Perot's friend, and Warner's aide (Col. William Leftwich) visited at length about the POW issue. Warner arranged for Perot to talk with Col. Chapie James of the DoD, which in turn led to a meeting with Assistant Secretary of Defense Capen. Eventually, Perot said he talked with Kissinger, who asked him to mount a private effort to assist American prisoners. The objective was to embarrass the North Vietnamese into improving treatment of American prisoners to improve their chance of surviving. Col. Alexander Haig was Perot's liaison with the NSC, he said.

²⁹⁶ Pentagon press conference, May 19, 1969.

Perot said he responded vigorously to the White House request, launching a spectacular mission that Christmas. A chartered plane was loaded with carefully designed packages for each prisoner even for the missing so as to avoid the appearance of having decided their fate, no matter how strong the evidence of death. At the same time, Perot financed a trip to Paris for POW wives and children, where they appealed directly to the Vietnamese mission there.

At home, Perot founded "United We Stand,"²⁹⁷ a POW/MIA awareness group with chapters in most states, which coordinated a letter campaign to the Vietnamese mission in Paris. Later, Perot learned from returned prisoners that their treatment did improve in direct correlation with his efforts.²⁹⁸

A further discussion of the impact of Mr. Perot's work during these years can be found in chapter 7 of this report.

POW bracelets

The most memorable private effort was distribution of bracelets engraved with the name of American POW/MIAs. Begun by Voices in Vital America (VIVA) and headed at the time by Carol Bates, this approach raised millions of dollars for travel by families to Paris and Moscow to repeat Perot's 1969-70 efforts. VIVA also staged POW/MIA rallies, with guarded help from the DoD.

Nearly a million bracelets have been distributed during the campaign and since, according to the League.

Son Tay raid

The Nixon Administration's effective use of the Son Tay raid supported its efforts to promote public awareness. Launched under the most stringent secrecy in late November 1970, the raid penetrated North Vietnam to the prison site at Son Tay, some 75 miles west of Hanoi. The raiders made their way in, found an empty prison, and flew out.

Subsequently, with genuine heroes to feed, the country celebrated the effort and honored the participants. The message that the U.S. was capable of such an action, and the connection between their efforts and the plight U.S. POWs endured was obvious and overcame the mission's failure to rescue POWs. The Nixon Administration also used nationwide commemorations to undergird the public awareness efforts.

OPERATION HOMECOMING

To date, the United States' best opportunity to learn about the fates of unaccounted-for servicemen came in February and March 1972, when 591 Americans were returned during Operation Homecoming.

Of the 591 POWs returned between February 12 and April 1, 1973, 457 returned from North Vietnam, 122 from South Vietnam, nine from Laos, and, following additional diplomatic negotiations, three returned from China.

²⁹⁷ Perot testimony, Aug. 12, 1992. In 1992, the group became the vehicle for Perot's bid for the U.S. presidency.

²⁹⁸ Ibid.

In all, 566 were servicemen—325 were from the Air Force, 138 belonged to the Navy, 77 were Army and 26 were Marines. The 25 civilians were members of various U.S. Government agencies.

The Vietnamese listed 55 as having died in captivity; returning POWs put the number at 111. On April 13, 1973 the Pentagon announced that there was no evidence that any more U.S. POWs were still alive in Indochina.²⁹⁹ During this same period, however, the DOD's Homecoming Center at Clark Air Force Base (the Center) reported that returning POWs had provided information indicating that 156 servicemen "may have died in captivity".

POWs' view

In captivity, American servicemen made learning the names of fellow prisoners the highest priority and pledged to each other that they would all go home together.

Admiral James Stockdale, who won a presidential citation for his service to the U.S. while the senior officer held captive,³⁰⁰ said the pledge was central to POWs' survival, because it kept them going through unspeakable torture and other adversity:

In the matter of accountability for Americans in the prisons of North Vietnam, what appears to be chaotic to the outside after-the-fact investigators seemed by contrast comparatively orderly to the self-governing, self-accounting body of Yanks who spent considerable time there. Self-governing, self-accounting. That's important. It had to be a team operation.

We who struggled for years to maintain unity over self, keeping, memorizing, cross-checking names of all Americans physically sighted or whispered to or tapped with, we had stringent requirements to get into the system. It couldn't be hearsay, it couldn't be anything. The guy had to have been seen or whispered to or had some physical contact with somebody.

Found in those dungeons—all of this activity found in those dungeons, a meaning of life centered on being your brother's keeper emerged, keeping a memorialized chronology of contacts and acquaintances that could some day,

²⁹⁹ See discussion of President Nixon's statement to the nation and Dr. Roger Shields's statement in the Paris Peace Accord chapter and numbers chapter.

³⁰⁰ The award, bestowed by President Gerald Ford, is:

"For conspicuous gallantry and intrepidity at the risk of his life, above and beyond the call of duty, 4 September 1969, while senior Naval officer in the prisoner of war camps of North Vietnam, recognized by his captors as the leader in the prisoners of war resistance to interrogation and in the refusal to participate in propaganda exploitation, Rear Admiral, then Captain, Stockdale, was singled out for interrogation and attendant torture after he was detected in a covert communications attempt.

"Sensing the start of another purge and aware that his earlier efforts at self-disfigurement to dissuade his captors from exploiting him for propaganda purposes, had resulted in cruel and agonizing punishment, Rear Admiral Stockdale resolved to make himself a symbol of resistance regardless of personal sacrifice.

"He deliberately inflicted a near mortal wound to his person in order to convince his captors of his willingness to give up his life rather than capitulate. He was subsequently discovered and revived by the North Vietnamese, who convinced of his indomitable spirit, abated in their employment of excessive harassment and torture toward all of the prisoners of war.

"By his heroic action at great peril to himself, he earned the everlasting gratitude of his fellow prisoners and of his country. Rear Admiral Stockdale's valiant leadership and extraordinary courage in a hostile environment sustained and enhanced the finest traditions of the United States Naval Service."

God willing, when papers and pencils were available, allow you to present to the world a history, in the worst case, of who was last known to be where.

There were four very tough years from late '65 through late '69 when many of us were in solitary most of the time, under the gun of a carrot-and-stick extortion and torture program, when the deepest fear in many of our hearts was to be stashed in isolation in some part of this prison or one of the satellites, where you could scream to the top of your lungs and nobody would understand English, to be stashed in isolation, there to expire by one means or another leaving no audit trail with your surviving comrades that might some day reach your family as a creditable account of your last days.

Morbid stuff, but real, and in the last instance, the trigger that in the strange high-mindedness of solitary existence drove many of us to be compulsive communicators, risking all, sometimes when you couldn't be sure the hall was cleared of guards, to get a position report out of who you were and what your predicament was, and we'd do that with that old shave and haircut and our code that was initiated, that message initiated by that second nature tap code we had so luckily inherited from the reconstructed faint memories of a fellow prisoner named Smitty Harris.

It was not part of a—the Government never came up with that. This was prisoner-generated from a memory, from an enlisted prisoner in Korea that an Air Force captain named Smitty Harris remembered talking to him about. That was our lifeline.

What started in August 1964 with the imprisonment of Ev Alvarez in cell 24 off the Heartbreak Courtyard in Hoa Lo Prison in downtown Hanoi, he the first American air crewman captured in North Vietnam, grew over the years to hundreds of Air Force, Navy, and Marine pilots and backseaters attuned to one another's presence only by that tap code, but kept not only in the hub of the North Vietnam prison system, this Hoa Lo Prison, but spilled over into a family of satellite prisons, some few within the city, but several in the countryside within a radius of some 60 miles from that old French prison, Ministry of Justice and its companion piece, Hoa Lo Prison. . . .

Americans were picked out, blindfolded and handcuffed, and shuttled around in Jeeps during the night, totally uprooted and taken away from what had become their dearest friends, clinging to that memory list of 100 or 200 or eventually 300 or more alphabetically arranged names of those they knew to have been seen, tapped with, or whispered with in that private American Hoa Lo universe of ours, while in the meantime our underground resistance organizations coalesced, became disciplined, resolute and effective, and then inevitably fell to purges and were dispersed when these organizations were compromised or

became so effective that they threatened the commissar's fulfilling the propaganda quotas of the general staff.

Build an organization and have it torn down. Build an organization and have it torn down. That was the rhythm of our lives. The American prison population grew, the cycles continued, and familiar names kept popping up at Hoa Lo Prison. It was our loop, and the same names kept going round and round.

But it was the Son Tay Raid of November 1970 that prompted the North Vietnamese to bring them all—all of these chickens out in the satellite camps back, all back to Hoa Lo Prison, where in January 1971 every American prisoner—with two exceptions which I'll cover in a minute—where every American prisoner who had ever been sighted, whispered to, tapped to by any other American over the last 6½ years were all locked up in a ring of contiguous large cell blocks around the largest west courtyard of Hoa Lo prison, and it's half the prison.

The prison occupies about a square block, and this is almost a half a block, and there we were, a place we immediately named Camp Unity, 342 of us. That was—the time was January 1971. . . .

There were some exceptions, Stockdale added,³⁰¹ and some groups were kept separate:

Little did we 342, in our splendid isolation of that January 1971, know that a new mixture of American prisoners was being brought up to Hanoi, not just flight crews that had been the case all those first 6½ years, but Army and Marine troops. Prisoners from South Vietnam and a few from Laos were being moved in unbeknownst to us and only known to Ted Guy.

We and these last were never mixed until Operation Homecoming was effectively underway, but by 1971 the war was in a new phase. Of course, more shot-down flight crewmen would join us late '71 and '72, and particularly a few they took over in 1973, what I call the second air war in Vietnam. Three Marines, for instance, joined us, 24 Navy, and something just short of 100 Air Force, counting what were the B-52's. . . .

We memorized the shot-down pilots as their names came in, but my memory of them and their numbers is nowhere

³⁰¹ Stockdale's testimony continued:

"Now the exceptions. At the time the 342 shared tap tales of reunion between these big cell blocks the master name list was actually 351 people sighted in the last 6½ years, or tapped to. Where were the other nine?

Eight were a group we called the Lonely Hearts, eight who had been part of us and shared comradeship with us but were now known by us to be dead or dying, and there was one other, a healthy Air Force lieutenant colonel named Ted Guy, who had been taken away from Hoa Lo, blindfolded and handcuffed in the jeep in the night the previous spring. We knew that. We had that kind of accountability. We knew Guy was gone. Hundreds of people in there, but Guy was gone. We remembered that.

. . . Now, let me clear up these nine. We would never see the Lonely Hearts again, but all eight of their bodies would get home about the time that we would, two years later, and as for Ted Guy, we would see him on Operation Homecoming. He was a Lao shootdown. We had five of them in our 351. In June 1970, he had been taken to a camp named Farnsworth where he—we learned this later—where he joined American captives marched up from South Vietnam.

as vivid as those of my 6½ year sample which I'm concentrating on, because that is the—that's the centerpiece. That went all the way. Men who went through storms of isolation and torture and lost track of nobody: 351 of them.

We all came home together, as we promised each other we would, but it was 9 and not 8 that came home in body bags because Marine Warrant Officer John Frederick, alive and well at our muster in January of '71, died of an illness a year later. Ted Guy, Of course, joined in and filled in wherever the number of living—and kept the number of living at 342.

Nothing untoward happened to the additional 125 or so live pilots that joined us that last year—no abductions—and that group brought up the rear at Homecoming, which was designed to be first-in, first-out.³⁰²

In addition to increasing the U.S. Government's information about life in prison, the returning prisoners brought painful news about the difficulties they faced even before they got to the prison system. As Stockdale testified:

Now, I've said nothing about Americans who died after they pulled the ejection handle or before they were captured, or after they were captured and before they got to the gate of Hoa Lo, and I expect there were many.

For most of my imprisonment, I carried the name of a Navy Lieutenant, Randy Ford, who one of my fellow prisoners at Hoa Lo told me he whispered to in the darkness at a holding point near Vinh on the way to prison. He said Ford was badly injured and [he] never caught sight of him, but the way he was moaning and barely talking, and probably would not make it to prison alive.

There were lots of people out there like that, I think. Ford did not [make it to the prison system], but I noticed—I kept track. His remains were returned to the States.

Another witness, Donnie Collins, described the ordeals her husband, Thomas E. Collins III, suffered before getting to the prison system:

Tom doesn't talk about the war and what went on there. . . . But he did tell me that he went down just short of the target, which was a bridge. The airplane was rolling at 1,000 feet when he went out of it. He got his backseater out. But he was almost—the plane was almost upside down when he went out, which basically ejected him into the ground. It broke his back.

He crawled off under a bush and waited. The townspeople came out, not too happy to see him, but maybe thrilled too because they beat him severely. After they beat him severely, he was taken into the village and questioned. . . . When he ejected was the number-one time he could possibly have not made it to Hanoi. Number two

³⁰² Ibid.

time was when the villagers decided to beat him unmercifully.

The third time was when he was taken in and questioned, and refused to give any information. He was then taken out. He was beaten. That's the next time. Taken out and put in front of the firing squad the next time. He was then taken back in. At this time he was deaf. They had beaten him until they burst his eardrums. He was one total raw piece of meat from head to toe, unable to walk, unable to move, unable to hear. They again questioned him. When he refused to answer anything except what he was supposed to answer, he was taken out again and lined up in front of the firing squad.

Now, this isn't enough. He survived all that. Two weeks later, they put him in a truck to take him to Hanoi, and on the way there the truck was bombed twice by our troops. Both times, he said, had they had a direct hit there was gasoline in the back of the truck where they were hauling barrels. He could have not made it both times.

Then—that wasn't enough—the truck fell through the bridge, dumping him into the river with his hands and feet tied. And just before he took his last breath they found him in the deep river, in the dark of night, and pulled him out after fishing for him. He finally made it to Hanoi. . . .

During all this period of time, Tom could have been on the ground alive and never made it to Hanoi, and never made it to the prison system, and never made it into the name list. . . .

Once he was in Hanoi and caused trouble, he was moved from camp to camp. He was not really in the big system there. He was in every camp they ever had. They took him out and put him there because he was a good communicator and set up communications [among American POWs]. So, they never wanted him to be anywhere, so they just kept moving him from place to place and he was, at one time or another, in all 12 camps, and also in a cave.

He was kept many times in a cave of "one-steppers." And those of you who have been in Vietnam know what one-steppers are, which meant that he was just one step from death when fastened in the cave. At the time the peace agreement was signed he was not in Hanoi. He was up on the border and had to be brought back. . . .

At one point, when an American Congressman suggested to General Giap that the best thing to do was to put an American in every city in Vietnam so that they would not bomb North Vietnam, they took that to heart and fastened Tom and a few of the other POWs to the power plant to make sure that the Americans didn't bomb that. He hung there until he nearly died with the French handcuffs cutting into his wrists. When he was at the point of death from starvation, they took him down and moved him in. He came very close at that moment, as he did every day of his life, to not surviving.

Tom only survived because he is the toughest human being inside that I have ever known. If I had to go to hell today and only had one person I could choose to take with me, I would take Tom and go gladly.³⁰³

Debriefings

Phase I of Operation Homecoming was the POWs' repatriation. The exit point for all but nine returned POWs was Hanoi.

Phase II of Operation Homecoming was debriefing at Clark Air Force Base by the Joint Debriefing and Casualty Reporting Center (JDCRC), under the direction of CINCPAC. JDCRC had representatives from each military service. Civilian and foreign returnees were debriefed by the Service with which they were associated or by members of the U.S. Embassy, Manila. Each Service handled its own debriefings, differing in approach, but following common debriefing instructions. The Army and Marine Corps used professional intelligence debriefers whose sole job was debriefing. The Navy and Air Force used a combination of escort and debriefer. The Navy used only Air Intelligence Officers. Air Force escort/debriefers were not chosen from specific specialties.

The Committee attempted to examine the process of debriefing returning POWs at Clark Air Force Base in the Philippines, and again when they returned to the U.S. to determine:

The objectives of the debrief program;

Its planning—what assets were devoted to the task and how were they organized, deployed and funded?

Its implementation—how adequately DoD debriefed the POW returnees and how well they processed the POW/MIA debrief reports. What all-source information was requested and collected by DIA as a result of the debriefs? How were leads (such as names, photos, etc.) followed? How fully were the debriefing results reported to the Executive Branch and Congress?

DIA made no final report aggregating the results of the individual debriefings after Operation Homecoming.³⁰⁴ While DoD has provided a substantial amount of material to the Committee, the collection suffered with the passage of time. Without a final report, and without complete files and access to information, it is difficult to fully assess the adequacy of Operation Homecoming debriefings nearly 20 years after the fact.

The returnees were processed in five cycles. Each group consisted of 20-150 returnees, arriving at 8-10 day intervals. The debriefs were transcribed, edited by the senior officer of each service, and transmitted. When a returnee's debriefing was completed, the intelligence packet, including the debriefing tape, transcribed debrief and/or assessment report, would be assembled and sent by the escort officer for relay to the appropriate CONUS hospital.

A summary of the debriefings included:

Returnees debriefed:

USAF	324
USN	138

³⁰³ Collins testimony, Dec. 3, 1992.

³⁰⁴ Letter, DoD POW/CDO U-1482, dated November 4, 1992.

USA.....	71
USMC.....	22
US civilians.....	23
Thai civilians.....	2
German civilians.....	2
Canadian civilians.....	1
Total.....	583
Returnees not debriefed:	
USAF medical.....	1
USMC higher HQ directed.....	4
USA higher HQ directed.....	6
Total.....	305 11

The committee learned a great deal about the debriefing process from the testimony of Admiral and Mrs. Stockdale—among them that POW wives were never debriefed by DIA, and that Admiral Stockdale's debriefing was limited to his 52-hour initial debriefing.

Senator DASCHLE. . . . Do I understand, Mrs. Stockdale, that you have never been debriefed officially by the Federal Government?

Mrs. STOCKDALE. I think you understand correctly, yes never.

Senator DASCHLE. And Admiral Stockdale, to what extent have you been debriefed, even in subsequent years, by DIA, by anybody, as we try to put together our best information?

Admiral STOCKDALE. Nothing but my initial debrief, which was rather extensive.³⁰⁶

Phase III debriefings were conducted in the United States.

A symposium was held June 20-23, 1973 to discuss lessons learned. The panelists thought the debriefings were accomplished without major problems, although some debriefers complained that emphasis was placed on familiarization with the POWs background and insufficient stress was given to basic debriefing techniques. Rapport between the POW and his debriefer facilitated the flow of information. Each service attempted to first establish an effective working relationship. The Navy allowed the debriefer to escort the POW from Clark Air Force Base to the U.S., hoping that this would cement a working relationship. The Army and Marine Corps sought to achieve good rapport by matching the debriefer and POW by rank, background and interest. Debriefers were primary collectors of all available data.

While in captivity POWs had designated certain POWs to serve as "memory banks," this created initial pressure because many early returnees were hesitant to discuss information which they had not been directed to gather and commit to memory. This stumbling block was removed when senior POWs directed them to relate their entire experience to debriefers.³⁰⁷

³⁰⁶ Intelligence Activity, Homecoming After Action Report, Joint Debriefing and Casualty Reporting Center, undated. The committee requested the reasons for these returnees not being debriefed at Clark AFB and what debriefings were completed.

³⁰⁷ Testimony of Admiral and Mrs. Stockdale, Hearing on POW/MIA Issues, December 3, 1992.

³⁰⁷ Report, Center for Prisoner of War Studies, Lessons Learned Symposium, San Diego, California, June 20-22, 1973.

Suspensions have surrounded the debriefing of returned POWs for nearly 20 years, primarily because access has been restricted based on debriefing agreements with the returnees.³⁰⁸ Did the government leave men behind? Did key officials know it? Were the returnees told to not report certain information? Was the prison system a closed circle of knowledge; could there have been separate prison systems not known to the returning POWs? Was the American public told the truth?

Debriefing results

Life in captivity

Post-Homecoming debriefings and a DIA Intelligence Appraisal of them, now unclassified, provide a summary of the prisoners of war's experience in Southeast Asia.³⁰⁹

Captivity ranged from several hours in South Vietnam to more than eight years in the North. Most servicemen were captured during the height of the bombing of the North between 1966 and 1968. POWs captured prior to December 1971 were known as the "Old Guys." The majority of POWs were Air Force and Navy pilots shot down over North Vietnam and virtually all were captured within minutes because they descended directly into populated areas. Many suffered ejection injuries and shock which made evasion impossible; while others evaded successfully for up to 12 days. Evasion in Laos was somewhat easier and many more downed airmen were recovered in the sparsely populated and otherwise more permissive environment. POWs captured in Laos and taken to North Vietnam had spent less than three weeks in Laos itself.

The PRG returned 122 U.S. POWs; 28 were released in South Vietnam. All but one had been captured by the Viet Cong and detained near the Cambodian border and the last POW was held in the Delta region. The remaining 94 POWs were captured north of Da Lat City after 1968 and moved to North Vietnam for detention.

Living conditions in the South were primitive and life was hard. POWs often were chained or bound for long periods, primarily as a security precaution. Movement was frequent and involved walking several weeks between camp sites, and the daily survival routine varied little through the years. There was no overall policy or systematic torture of POWs in South Vietnam, but treatment varied by individual camp commanders and guards. It was more difficult to survive captivity in the South, but escape was easier, and 26 POWs (about 12 percent) captured in the South escaped.

Treatment in North Vietnam varied over three eras. Until late 1965, there was little use of torture. From late 1965 until late 1969, torture and mistreatment was common. Beginning in late 1969, torture and mistreatment declined. "Camp rules" were the basis for punishment, and they specified that all American POWs were criminals. This was consistent with North Vietnamese protests

³⁰⁸ Letter, Assistant Secretary of Defense, Command, Control, Communications and Intelligence, dated January 15, 1992.

³⁰⁹ DIA Intelligence Appraisal, DIAIAPPR 35-73, dated 8 May 1973, subject: A Summary of Prisoner of War Experience in Southeast Asia, A Briefings and a 1973 7602 Air Intelligence Group Brief on Captivity in South East Asia.

that the Geneva Convention on prisoners did not apply to American POWs because the war was an undeclared one.

The prison system

In North Vietnam, 13 camps were used for permanent detention, eight outside of Hanoi and five within the city. Three camps outside of Hanoi were used exclusively to hold POWs captured in South Vietnam and Laos. Four camps were used only for POWs captured in the North. POWs from all areas were confined in the remaining camps. The primary camps were Hoa Lo Prison and Cu Loc, dubbed by American POWs the "Hanoi Hilton" and the "Zoo," respectively.

POWs arriving in Hanoi normally were moved directly to the Hanoi Hilton, a maximum security prison built in the heart of the city by the French in the early 1900's. It was divided into three parts: (1) "New Guy Village," called "Heartbreak" from 1965 to late 1971, served as the interrogation facility throughout the war; (2) "Little Vegas;" and (3) "Camp Unity," the largest section first used to detain Americans in 1970.

After interrogation at the Hanoi Hilton, POWs would remain in Little Vegas or be transferred to either the Plantation or the Zoo. The Plantation was initially a showplace camp for visits and later held 108 POWs from Laos and South Vietnam. The Zoo housed nearly 200 POWs at one time and replaced the Plantation as the North Vietnamese showplace during the last years of the war and was the camp visited by Ramsey Clark, Jane Fonda, and Joan Baez.

Prior to 1970, POWs were held in small to medium-sized camps or in small isolated groups within the camps. After the Son Tay raid, the smaller camps were closed, the POWs consolidated, and treatment of POWs improved. In late 1972, the North Vietnamese readjusted the camp system in anticipation of the POW release. The American POWs were released from North Vietnam in four increments: the first two from the Hanoi Hilton, the third from the Plantation, and the fourth from the Zoo. All POWs captured in South Vietnam and Laos who were held in North Vietnam were released from the Hanoi Hilton.

Information about unaccounted-for servicemen

A preliminary Committee staff analysis of a computer listing³¹⁰ of non-returnees named in the debriefing report³¹¹ showed that 51

³¹⁰ The USAF had developed an ADP system under private contract to satisfy Air Force requirements to retrieve information from returned POWs. On 11 October 1972 the Assistant Secretary of Defense, International Security Affairs, directed that this system with modifications be the Homecoming ADP system with the Air Force as Executive Agent under management of DIA. Memorandum, 1-18650/72, dated 11 October 1972. Subject: Automated Data Processing (ADP) for Initial Debriefings of Repatriated Prisoners of War. DIA Decision Paper, U-11,136 DI-6 with a proposed DIA Regulation 60: subject Intelligence Support of Homecoming Initial Debriefing of Repatriated Prisoners of War.

³¹¹ Headquarters, United States Air Force computer listings: HOMECOMING (EGRESS RECAP) Summary of all Non-Returnees Reported and Candidate DIA Identifier in four sorts of information reported by returnee: Army Personnel not returned for SEA, 5 May 78; Navy Personnel not returned from SEA, 5 May 78; Marine Personnel not returned from SEA, 2 May 78; USAF Personnel not returned from SEA, 5 May 78. Documents prepared by Air Force Data Services Center, Air Force Data Automation Agency. The document originally SECRET NOFORN was declassified 31 December 1979 by HQ USAF ACIS.

servicemen named by returnees had not returned from Southeast Asia.³¹² Upon the Committee's request, DIA prepared a case-by-case review of these 51 cases and³¹³ determined that 51 names in the USAF listing were inaccurately correlated.³¹⁴ A summary accompanying the DIA review explained:

These debriefs were reviewed for intelligence value immediately after Operation Homecoming in 1973. It must be emphasized that the returnees were asked for information they may possess on unaccounted for Americans, not just for information on known prisoners of war.

Of the 51 listed, the following observations remain true:

Many POWs reported on individuals they personally saw dead.

Many names reported to debriefers were heard in the prison communication system; when investigated after Operation Homecoming, most of these reports were cleared:

Many reports came from queries by one individual, about what happened to a particular individual; they were questions, not answers. (58 percent)

Where the source was identified, it was determined that he had never seen the listed man. (16 percent)

Some individuals were reported as seen in the company of a group, but no other member of the group reported having seen the individual. (14 percent)

Several reports of possible POWs in a particular camp were based upon phonetic spellings seen on camp walls or elsewhere, or on radio broadcasts. (6 percent)

One report correlates to an individual (Howard Lull) who was captured but killed before entering the camp system (Howard Lull, XX)

Five of the individuals on the list of 51 names are Vessey cases. (Hestle, Lane, Eidsmow, Entrican, and Finley)³¹⁵

Some of the returning POWs also provided debriefers with "memory lists" of fellow POWs believed to have been in the prison system at some point in time. These included the "LuLu Group" (POWs captured in Laos who entered the prison system in North Vietnam), the "Lost Sheep List" (POWs who "disappeared" in the prison system) and the "Lonely Hearts List" (POWs seen dead or dying in the prison system). The committee requested copies of all such lists. The DoD response is included here for the record³¹⁶ and discussed elsewhere in this report chapter dealing with government knowledgeability and actions.

No information about live Americans was reported from the debriefings of returned POWs to any member of the U.S. delegation to the Four Party Joint Military Commission.³¹⁷

³¹² Committee Letter, dated June 25 1992 to Margaret R. Munson, Director, DoD POW/MIA CDO, Office of the Secretary of Defense, Washington DC 20301-3040.

³¹³ Committee testimony of Mr. Robert Sheetz, Director of the DIA Office for POW/MIA Affairs, June 24, 1992.

³¹⁴ DoD, CDO Letter, dated: 29 June 1992, TAB A: Alleged POW Names Reported by Returnees During Homecomings (Does Not Include U. S. Government Priority Cases).

³¹⁵ DIA Paper, Homecoming Debrief Analysis, undated.

³¹⁶ DoD POW/MIA CDO Letter, U0948, dated 13 July 1992.

³¹⁷ Depositions of Wickham, O'Connor, Budge, Russell and Robson.

The DIA provided the Secretary of Defense weekly summaries of the Homecoming debriefings. These reports showed that, after collating all the debriefings, only three men named by some POWs (whose fate was not learned from other POWs) were not accounted for.³¹⁸ The remains of these three men later were returned.³¹⁹

On April 17, 1974, DIA provided the Military Service Intelligence Chiefs a review of all reports received since Operation Homecoming of prisoners still held in Southeast Asia:³²⁰

Cambodia: None of the 27 Americans released by the PRG at Loc Ninh, South Vietnam in February 1973 were held with, or had knowledge of, the fate of any other American or foreign POWs in Cambodia. DIA listed 27 Americans and approximately 20 foreign journalists missing at the time of this report. No information on the fate of either group was obtained during Operation Homecoming.

Laos: Ten prisoners, nine Americans and one Canadian, were released at Gia Lam Airport on March 28, 1973. Since Operation Homecoming, the Pathet Lao claimed to hold no Americans prisoner except Mr. Emmet J. Kay. Live-sighting reports at the time of this report in 1974 remained unconfirmed, but DIA noted "... it is clear that the Pathet Lao had captured some personnel who were not released," and noted Eugene Debruin and Lt. Col. David Hrdlicka as examples of those known to have been captured by the Pathet Lao and not released.³²¹ The Pathet Lao made various statements over the years indicating their knowledge of American POWs in Laos. DIA concluded in 1974 that the Pathet Lao had yet to provide even a partially satisfactory accounting of the approximate 300 American POWs unaccounted for in Laos.

North Vietnam: In addition to the POWs released during Operation Homecoming, the list of 457 U.S. POWs contained the names of 23 servicemen reported by the North Vietnamese to have died in captivity. The remains were released in mid March 1974. DIA noted in April 1974 that there were no intelligence reports of U.S. POWs alive in North Vietnam. Intelligence reporting was generally limited to sightings of U.S. personnel who were subsequently released or died in captivity.

South Vietnam: 122 captured Americans were released during Operation Homecoming. The PRG provided a list of 40 more Americans who were reported died in captivity. DIA noted in 1974 that approximately 400 Americans remained unaccounted for in South Vietnam. Reports of American POWs in Tay Ninh, Chau Doc and Par Lac provinces were unconfirmed, but two U.S. collaborators/deserters were identified, DIA reported.

³¹⁸ Some Committee Members believe that messages from the Homecoming Center raise questions about a significantly larger number of once-known POWs whose fate was truly in question.

³¹⁹ DIA provided weekly Homecoming debriefing analysis reports starting with Report Number 1 182127Z February 73 through report number 12. Reports 1-10 were provided to the Secretary of Defense until he requested they be terminated. These reports were cumulative with the final report showing that three men remained in captivity after homecoming. The remains of these three men were later returned.

³²⁰ DIA Memorandum, 1024/DI-6, dated 17 April 1974, Subject: Reports of Personnel Still Held Captive in Southeast Asia.

³²¹ Ibid, p. 4.

Other indications

After Operation Homecoming, U.S. officials and others looked to new information about POWs' experience for additional leads. For many years, POWs were not permitted to send or receive letters. When mail finally was allowed by the North Vietnamese, the U.S. gained new information about its POWs.

Defense Secretary Melvin Laird recalled that about 5000 letters had been received and, through them, about 470 POWs in Vietnam and five in Laos had been identified.³²²

Five individuals verified in captivity by war-time letters but did not return at Operation Homecoming:

Dennis W. Hammond (USMC) was captured on February 1968. He wrote a letter that was never mailed by his captors that positively identified him as captured. A 1968 Vietnamese radio broadcast indicated that Hammond made a statement. Hammond subsequently died in captivity; his death and burial were verified by a POW who returned. Hammond's remains have not been repatriated.

PFC Donald L. Sparks (USA) was captured on June 17, 1969. A letter written nearly a year after his capture was found on the body of a dead North Vietnamese soldier. PFC Sparks remains unaccounted for and is one of the 135 Vessey discrepancy cases.

Capt. Robert Young, (USA) was captured on May 2, 1970. A statement dated in 1970 purported to have been made by Young was found among captured enemy documents. A 1971 FBIS report reported a statement from Young and other U.S. captives. Capt. Young's name appeared on the PRG's died-in-captivity list, but his remains have not been repatriated.

Daniel Niehouse, a U.S. civilian captured on November 25, 1966 sent a letter to his family in Scotland by prisoners released in 1967. Niehouse appeared on the PRG died-in-captivity list, but his remains have not been repatriated.

W4 John W. Frederick (USMC) was captured in December of 1965. He wrote letters to, and received letters from, his family while in captivity. Frederick died in captivity and his remains were repatriated to the U.S. in March, 1984.³²³

Were specialists kept behind?

Suspensions continued about whether some POWs with particular military specialties may have been segregated into a separate prison system and kept behind. The committee requested DoD to advise it about whether any abnormal statistical patterns were apparent based on military specialties; DoD's response included a student research report, "Analysis of Academic and Military Background of Released U.S. Prisoners of War and Those Unaccounted For," which was completed in March 1981. In the study, "the backgrounds of 478 USAF officer POWs/MIAs were statistically analyzed to determine if there were any significant differences between the backgrounds of those that returned and those that did

³²² Laird Testimony, September 21, 1992, Hearings on the Paris Peace Accords, pages 70-71.

³²³ Letter, ASD/ISA I-92/43943, dated September 25, 1992.

not return." The analysis revealed that men with the following specialties returned in significantly lower numbers:

Officers with intelligence-gathering or technically oriented specialties (AFSCs);

Officers with prior assignments at or above Major Command level;

Officers lost in 1968;

Officers lost over water near or in the Southern regions of North Vietnam;

Officers on Special Operations or Armed Reconnaissance missions; and

Officers flying F111s or multi-engine, propeller-type aircraft without ejection capabilities.

In conclusion, the findings did indicate that there were some military background and mission characteristics frequently associated with non-returning POWs/MIAs, but the question of whether any POWs /MIAs were held back because of these or other characteristics remains an open one.³²⁴

The accompanying memorandum noted that the study was requested by the DIA and noted:

... Various studies of the themes suggested in your letter have been examined by individual analysts in that office, but in general the informal assessments were maintained by the analyst only. Their consistent conclusion was, however, as the above analysis concludes, that there is no factual basis for the inferences you suggest, and it is in fact contradicted anecdotally by several of the "specialized" returnees. This is summarized in an overall briefing prepared by the Special Officer and provided below.

A recurring theme in the mythology of the PW-MIA issues is that U.S. personnel were exploited for their technical knowledge and skills. This theme is carried to the point of allegations that American personnel with certain specialized skills or knowledge were taken to third countries for exploitation, or were exploited by third country interrogators in Vietnam. Although the argument is seductive, it simply is not correct. No evidence exists to suggest that any American personnel were singled out for exploitation because of their technical skills, educational background, previous assignments, or any other element of their background. The following facts must be considered definitive:

As indicated above, a review of the backgrounds of returnees versus missing men as regards previous assignments, technical skills, education level, mission assignment and many other aspects reveals no correlation to returned or non-returned status. Simply stated, U.S. personnel with technical backgrounds, previous assignments in technical areas, or any other specialized skill or background are not missing in any greater proportion than are individuals without those backgrounds. In the case of air crews, survival of a shootdown, capture, and eventual return can only be described as a crap shoot.

³²⁴ The study was limited to USAF airmen lost over North Vietnam and was based on the premise that Vietnam continued to hold them prisoner after Operation Homecoming.

A review of debriefings of returnees reveals that prisoners were not interrogated to any extent on their technical knowledge. While some interrogations asked limited technical questions, the overwhelming thrust of interrogations and torture was to elicit political statements from the prisoners. Technical information was a very low or non-existent priority for questioning.

3 U.S. personnel were not subjected to interrogation by anyone other than Vietnamese, except:

In one incident involving several prisoners and a few cases where Americans were initially captured by Chinese military units operating in North Vietnam (these units did or did not conduct simple interrogations before turning the Americans over to the Vietnamese).

The KGB interrogated at least one American of Russian descent, who was on assignment to the Navy from the CIA. KGB officer Oleg Nechiporenko also prepared a questionnaire which may have been used in the interrogation of American POWs.

Some returned POWs report being interrogated by Cubans.

The idea that U.S. technical specialists, such as an "electronic warfare officer" or a radar navigator, could provide valuable engineering, design, and operational data to the Vietnamese or to some third country is questionable. In the first place, much technical information about even sensitive systems is available readily through exploitations of open sources. A magazine such as "Aviation Week and Space Technology" is a better source than an injured, frightened, hungry B-52 radar navigator. The Soviets provided to the Vietnamese technical data about U.S. systems which they had obtained through their normal intelligence operations. Second, the information which the Soviets sought on U.S. systems simply could not be provided by the tactical operators captured by the Vietnamese. The Soviets sought design, research and engineering data—information available more reliably and readily through penetrations of the U.S. defense electronic industry.³²⁵

Possibility of POWs outside returnees' knowledge

Returning POWs could not fathom a parallel prison system in Vietnam, the possibility that there was another captive world outside their own. According to Stockdale, they first considered the possibility when asked by then Defense Secretary Elliott Richardson:

In February or March 1973, I and several senior prisoners visited Secretary of Defense Elliott Richardson in his office at the Pentagon. He said, did you leave anybody over there? I answered as spokesman for the group and said no,

³²⁵ DoD Letter, U-1683 DoD POW/MIA CDO, dated December 17, 1992, with DIA Memorandum U-1690/PW, dated 16 December 1992 and Air Command and Staff College Student Research Report: Analysis of Academic and Military Background of Released U.S. Prisoners of War and those Unaccounted for, authored by Major Hugh S. McCleod, USA and Major Noel N. Mears Jr. USAF, dated March 1981.

and told him the story I just told you . . . the farthest thing from my mind was anybody being left. I thought it was impossible. . . . I told him how we counted noses.

He said, what about a second prison, a secret enclave—the first time I'd ever heard that. . . . I told the Secretary I had spent the best part of seven years trying to judge just what the North Vietnamese are thinking about, what they were capable of, and what they could get away with to our detriment . . . and the thought never crossed my mind that they could have sort of a stash for special prisoners that could be kept secret from the rest of us for years.

Senator McCAIN: Admiral, from your very strong statement it indicates to me that you do not believe that we knowingly left any Americans alive in Southeast Asia . . . Is that your view?

Admiral STOCKDALE. . . . I know there are some things I don't know about Laos, but I'm positive there's nothing . . . I have no evidence of anybody that was left intentionally alive in Laos or anywhere.³²⁶

Even the threats of their captors did not raise a serious possibility that there was anywhere else to be sent to:

Senator GRASSLEY. . . . Returnees independently described . . . instances in which Vietnamese interrogators threatened to send POW's to something referred to by the Vietnamese as survival camps if they did not cooperate. . . . Do you have any knowledge of such camps?

Admiral STOCKDALE. . . . I never heard that expression before, but it wasn't uncommon for them to make dire threats of death. . . .

Senator GRASSLEY. Admiral, as a prisoner and after your release, did you ever consider the possibility that the Vietnamese might have segregated prisoners soon after capture into two separate prison camps? . . .

Admiral STOCKDALE. . . . I've always had the feeling that he [Secretary Richardson] thought I was right.

Nor has any returned POW has ever suggested to Stockdale that he believed men were left behind, Stockdale testified.

Vice Chairman SMITH. To your knowledge, and with all of your contacts and communications with other POW's who have returned, did any POW ever report to you seeing or having seen, or knowing of a POW that they made direct contact with, who did not return?

Admiral STOCKDALE. Never did that happen, in eight years. . . . Never did anybody say, "We've got a guy over there." And if you find somebody that says, "I was in the Hanoi prison and I saw a guy, and then he didn't come home and I don't know what happened to him," he's not telling the truth.

³²⁶ Stockdale testimony, Dec. 3, 1992.

Vice Chairman SMITH. Did any POW that you came back with, ever indicate to you that there was any type of segregation in the camp system, that you were a part of, concerning military specialty, where people or specialty in the military?

Admiral STOCKDALE. No, I don't know of any. . . .

At the Committee's request, Admiral Stockdale examined a list of men last known alive.

Mulligan

Stockdale's first concern was about a POW named Mulligan:

Senator REID. Admiral, it is my understanding that yesterday you reviewed a list that Senator Smith gave you of 324 names. . . . Did you review that list yesterday?

Admiral STOCKDALE. . . . I was alarmed about the fact that eight of the entries were from the debrief of one James Mulligan. There were names I'd never heard of . . . So, I called Mulligan [a former POW in North Vietnam] . . . We went through all eight . . . He said not one of those was in my name [memory] bank.

Vice Chairman SMITH. I just want to say, Admiral, that I respect your answer. . . . But, I want to have the opportunity to enter into the record . . . the document which does mention those names in regard to Mulligan.

The Mulligan extracts³²⁷ were provided to DoD for rechecking the names against the debriefs. JSSA's response of December 11, 1992 noted that:

Col. Brown and his deputy, Mr. Dussault, personally went over each page of the lengthy transcript and list of POWs memorized by Capt. Mulligan. They found no reference to the MIA Collamore. However they did locate Homecoming debriefing reports that corrected "Collamore" to "Col. Lamar." Due to the misinterpretation of the taped pronunciation the name Cullamore was in fact determined to have been Col. Lamar, who has been returned to U.S. control.³²⁸

A second response stated:

1. We have reviewed Capt. Mulligan's debriefing file and the following names of MIA personnel were apparently reported by Capt. Mulligan: Beene, James A.; Collins, Richard F.; Davies, Joseph E.; Lawrence, Bruce E.; Raymond, Paul D.; and Pierson, W. C. III.

2. Capt. Mulligan also related knowledge of James Q. Collins (Capt. USAF) and William P. Lawrence (Cdr, USN) who were repatriated during Operation Homecoming.³²⁹

³²⁷ Extract, Homecoming (Egress Recap) Report, Summary of All Non-Returnees Reported and Candidate DIA Identifier, dated 5 May 78 from returnee Mulligan, James A. M131.

³²⁸ Letter, Joint Services Survival, Evasion, Resistance and Escape (SERE) Agency, dated December 11, 1992.

³²⁹ Letter, Department of the Air Force, Joint Services SERE Agency, dated December 16, 1992.

Committee staff telephoned Capt. James A. Mulligan on December 15, 1992. He stated that copies of the returnee debriefing report had been faxed to him by Admiral Stockdale and that the information listing him as the source is in error.

Sponeyberger and Wilson

Admiral Stockdale also discussed the fate of Captain Robert D. Sponeyberger and Lieutenant William Wilson.

Admiral STOCKDALE. . . . We had two people in—well now, Sponeyberger was never in our camp system so—I mean he . . . he came home but he didn't come home via my prison. . . . Sponeyberger . . . returned—in March 73 and he's shown as a pilot of an and F111 I don't know where he was held. . . . And Wilson . . . He was not in our prison system but he was returned. . . . I never had anybody in my prison that had flown an F111, so I don't know.

DoD provided a response to the committee's request to determine where Captain Sponeyberger and Lt Wilson were held captive, if this was outside the normal prison system, and where the remaining F111 POWs were imprisoned. This stated:

. . . Captain Sponeyberger was captured on 22 December 1972 and held in Hoa Lo prison from 25 December 1972 through 3 January 1973. He was then held at Cu Loc prison from 3 January 1973 through 29 March 1973. Lieutenant Wilson was captured with Captain Sponeyberger and held in Hoa Lo from 29 December 1972 through 3 January 1973 and at Cu Loc from 3 January 1973 through 29 March 1973.

VADM Stockdale was in Hoa Lo prison from 25 January 1969 until his release on 12 February 1973. The three were inmates at Hoa Lo prison at the same time from 29 December 1972 through 3 January 1973. Thus, in fact, Captain Sponeyberger and Lieutenant Wilson were held in facilities in the normal prison system.

Wilson and Sponeyberger were imprisoned quite late in the war, and their incarceration in Hoa Lo overlapped that of VADM Stockdale for only a few days. Because they were in the prison system for such a short time, it is possible that VADM Stockdale may not have remembered them or may never have known about them.

DIA has found no credible intelligence to suggest that any prison system existed other than the "normal" North Vietnamese prison system. None of the other F-111 aviators lost are known to have survived their loss incidents.³³⁰

³³⁰ DoD Letter U-1714/DoD POW/MIA CDO, dated 28 December 1992 with DIA Memorandum, Subject: Senate Select Committee Request for Information Regarding VADM Stockdale's Testimony, dated 23 December 1992.

Col. Donald "Digger" Odell

More recently, Col. Donald "Digger" Odell, a former POW, was also reported in the press as stating that two American POWs were taken away prior to Homecoming and not released. The Committee requested a DIA analysis of the news article, and DIA's response stated that Col. Odell mentioned the names of two individuals he speculated might have remained behind alive: Capt. Earl Cobell (USAF) and Lt. J. J. Connell (USN). DIA further noted:

The record seems to indicate that both men died prior to Operation Homecoming. Their names appeared on the DRV died-in-captivity list, passed to the U.S. Government on 27 January 1973. . . . Both individuals' remains were repatriated in March 1974. . . . Other returnees reported that Captain Cobell, a particularly recalcitrant prisoner, had been beaten almost to the point of insanity, possibly by a Cuban, in August or September 1969 and had to be force-fed by his roommate. Lt. Connell reportedly tried to deceive the Vietnamese into believing that torture had crippled his hands and had caused him to be mentally deranged.³³¹

The DIA's analysis was read to Col. Odell by phone. He acknowledged the press report accurately depicted his statement, said he had no knowledge of the reported deaths, and offered no challenge to the DIA statement of death.³³²

Defense Intelligence Agency assessment

Testimony by the DIA's Bob Sheetz included an undated paper entitled "Defense Intelligence Agency Commentary on Names Appearing in Returnee Debriefs," which makes the following points:

The DoD position is that all Americans known to have been in prison system in North Vietnam are accounted for.

In the prison communications system such as tap codes, using various signalling systems, clarity and completeness of communications sometimes suffered. Partial names, nicknames and names were arrived at phonetically.

The fact that a name was mentioned by a returnee does not mean the individual was in the prison system, it could merely mean that someone was asking about him, introducing his name into the system.

The objective of the debriefings was to get a listing of every name the returnee knew. DoD believed they could construct a "fairly tidy" list of names of men who did not return. The result, however, was not usable.

The lists had full names, partial names, nicknames, garbled names, names of men seen alive and names with no explanation. It was clear detailed analysis was needed. This initial listing is the "pink pages." This is the list

³³¹ DoD POW/MIA CDO Letter, dated 4 November 1992 with an undated unsigned letter to the Committee from DIA and the unclassified files of Cobell and Connell.

³³² Memorandum for Record, dated December 9, 1992, subject: Telephone Interview with Colonel Donald "Digger" Odell.

which the committee has now. That list, is a list of raw, unevaluated names from the debriefs at Clark AFB.

Detailed briefings sorted out the names initially provided. Analysis sorted the names. Cross-checking took four years, the last published list was September 1977.

The resulting list called "white pages" was published in 1977. In the final list of names there are no concrete indications that any of the men in the prison system and remains of some men on the 1977 list have been returned.³³³

On Dec. 23, 1992, DoD provided an additional response from the Defense Intelligence Agency. The substance is quoted in full:

1. In response to the Committee letter of 10 December 1992 on information found in the returnees' debriefs, the Defense Intelligence Agency wishes to clarify the facts at issue. In June 1992, at the request of the Committee, we re-analyzed a list of 51 names in debriefs which were presented as potential priority discrepancy cases, and found that they were, in fact, all references to accounted-for servicemen. We stated at that time informally, and again in our September letter, that we would be happy to provide specific analytic support on specific name questions, but would not provide analysis on the total set (that is, a reworking of the whole), requested once then, and now again in your 10 December letter. We are unaware of outstanding questions on the May 1978 computer listing. This complete listing was thoroughly analyzed in the 1973-77 time frame. We offer the following generic description of that process.

2. The Committee should be aware of the details of analysis devoted to names provided by returnees during Operation Homecoming and subsequent debriefings. When returning American prisoners arrived at Clark Air Base in Spring 1973, they were debriefed immediately and asked to provide the names of other Americans they had seen or heard of in the prison system. At this point, maximum effort was placed on collecting names; little attention was paid to accuracy, spelling, or circumstances under which the name was heard. An additional problem, here and later, was that many of the names were mistakenly identified from the actual tapes of the interviews and had not actually been stated by the debriefees. The names provided at this time were submitted by message to the military service casualty offices and to the Defense Intelligence Agency. On 24 April, 1973, this list of initially-reported names was printed on pink paper and became known as the "pink pages." Analysis of these names at the time showed a large number of duplications, names of returnees, names of men still missing, partial names, and phonetic names for which the correct spelling was not available.

³³³ Defense Intelligence Agency Commentary on Names Appearing in Returnee Debriefs, undated.

3. The military services and DIA began analyzing these names. Their objective was to remove from the list names of men who had returned or names which were determined to be invalid. Throughout this process, each agency cross-checked its work with the other agencies and inter-agency agreement was reached on names which should be removed from the listing. As a result, on 9 May and 5 June 1973, a second list of names was published. Names in the "pink pages" which pertained to returnees or in other ways did not pertain to missing men were not on this May-June 1973 list.

4. The list which the Committee notes is dated May 1978 is, in fact, a reproduction of the April 1973 "pink pages." That is, the list of the initial, unevaluated listing of names provided by the returnees during their debriefings at Clark. This list contains names of men in the prison system as well as names of men who never appeared in the system but whose fates were the subject of discussion through the prison communication system. The appearance of a name on this list in no way offers definitive evidence that the man named was in the prison system.

5. By this time, the returnees had been dispersed from Clark to bases and homes in the United States and detailed debriefings were begun. During these debriefings, every effort was made to obtain from the returnees details of names they had provided during the initial debriefs at Clark. Especially important was the necessity to differentiate between the name of an individual who was actually in the prison system as opposed to the name of an individual who had been lost and whose name was being passed through the system in an attempt to locate him, though he was never in the prison system.

6. After this, the names provided by the returnees were subjected to exhaustive analysis over a four-year period from April 1973 until September 1977. They were then checked, cross-checked, and analyzed by the services and by DIA. The objective still was to develop a list of men who did not return. When this process was completed, the resulting document, known as the "white pages," was published on 2 September 1977. This document is the definitive compilation of information on missing men provided by the returnees. In virtually every case, the information which the returnees furnished dealt with the missing man's loss incident of his death in captivity. Four years of analysis of information provided by the returnees led DoD to the following determination: all of the men who were known to be in the prison system either came home during Operation Homecoming or were accounted for at that time. DoD stands by that conclusion.

7. To reiterate, the Department stands ready to assist the committee with specific, bounded requests for analytic assistance. We cannot honor the request to do all of this

work over again especially since the initial work has been shown to be valid.³³⁴

Committee review of debriefing reports

To examine inconsistencies in the record and the hearings, the Committee requested Operation Homecoming records and information from DoD.³³⁵ The responses indicated that no final analysis had been completed of the debriefings other than the Air Force computer listing. The Committee advised DoD that records provided by DoD showed that the Army had been tasked to provide an historical record and the committee requested a copy, but none was received by publication of this report.³³⁶

The Secretary of Defense declined to allow Committee staff access to the actual debriefings, citing confidentiality commitments made to the POWs at the time of their debriefings. "The former POWs were assured that under no circumstances would these recorded debriefings be released to anyone. The Department of Defense has and will continue to honor that pledge."³³⁷ The DOD agreed to make transcripts of the debriefings available to the Chairman and Vice Chairman, however, although it retained control of the transcripts.³³⁸ Both the Chairman and the Vice Chairman reviewed several summaries and debriefing transcripts, but did not have time to conduct more than a limited review.³³⁹

The Committee also sought permission to review returnees' debriefings. DoD was unable to provide the addresses of the former POWs, but Nam-POW, Inc. gave the Committee an updated list and permission to use its mailing list.³⁴⁰ A survey was sent to the 483 former POWs with known addresses in October 1992.

The Chairman and Vice Chairman directed that the mailing assure each former POW that the Select Committee's sole interest was information on non-returnees to provide casualty resolution. It was not a general screen of debriefing reports, but a specific search for names of those in captivity who did not return. Senator McCain, a former POW, approved the questionnaire before it was sent.

At publication time, the committee had received 368 responses: 19 letters were returned, 285 returnees agreed to the review and 19 declined. Another 27 acknowledged the Committee's request, but had no information. In all, 18 had additional information or requested a committee interview; however, this information could not be followed up without access to the debriefing reports.

³³⁴ DoD Letter, U-1712/DoD POW/MIA CDO, dated 23 December 1992 with enclosure DIA Memorandum U-1716/PW, subject: Senate Select Committee Inquiry, dated 22 December 1992.

³³⁵ Letters to DoD, dated September 14, 1992 and October 22, 1992.

³³⁶ DoD Letters to the Committee dated 22 September 1992, 15 October 1992. Assistant Secretary of Defense, International Security Affairs Memorandum for the Secretaries of the Military Departments, Chairman, Joint Chiefs of Staff, 1-150944/72, dated 1 December 1972, Subject: Historical/Photographic Documentation of PW Repatriation Activities.

³³⁷ Letter, Assistant Secretary of Defense, Command, Control, Communications and Intelligence, dated January 15, 1992.

³³⁸ Response to Committee by Mr. Duane P. Andrews, Assistant Secretary of Defense, Command, Control, Communications and Intelligence, January 15, 1992.

³³⁹ The Vice Chairman notes his concern that some POW/MIA information in the de-briefs may not be fully reflected in subsequent DIA analyses.

³⁴⁰ Letters, October 1, 1992 from Colonel Ben M Pollard, USAF (Ret) President Nam-POWs, Inc.

Based on these returns, which included a formal release granting the Committee permission to review that portion of their debriefing that related to (1) the returnee's knowledge of any individual in the prison system or (2) to his knowledge of any individual who may have survived capture, the Committee on November 13, 1992 requested that the Secretary of Defense make available the debriefings of those returnees who had granted permission for review. Cheney declined the committee request.³⁴¹

At the December 1, 1992 Hearing on DoD Oversight, Carl Ford, Assistant Secretary of Defense for International Security Affairs in an exchange with Senator Kerry and Senator Smith agreed to work with the committee to seek a compromise on staff access to the returnee debriefings.³⁴² In response to committee letters, Andrews noted on Dec. 28, 1992:

We continue to allow the Chairman and Vice Chairman of the Select Committee access to the POW debriefings. We are aware that a number of returnees have consented to a review by staff of the Committee on POW/MIA Affairs of that portion of their debriefings which relates to their knowledge of the presence of other POWs in the prison system or of their knowledge of any individuals who may have survived their incident of capture.

These former prisoners were asked to grant access to Department of Defense records that they do not control. If we were to permit staff access to those records where the Select Committee has obtained a release it would be unfair to the others who might feel pressured concerning their decisions to maintain the confidentiality of their experiences and would set an unacceptable precedent for returnees in future conflicts.

If the Select Committee determines that the very significant cost is warranted, the Department could once again review all these debriefs and extract the text containing the names of the unaccounted for Americans. This effort would take several months to complete.

We have a high degree of confidence that the effort to glean names of unaccounted for Americans from our returnees during Operation Homecoming was thorough and that those names are accurately reflected in the 1978 list referenced by Senator Smith on December 3, 1992, during the open hearings of the Committee. In the context of Senator Smith's concern that the 1978 list might be based on flawed analysis, the Joint Services SERE Agency (JSSA) conducted an extensive analysis of the Mulligan-Collamore example cited by Senator Smith. The original analysis was reconfirmed by the JSSA review which is summarized in enclosure 1. We believe that the accuracy of the remainder of the 1978 list would be substantiated under similar scrutiny.

³⁴¹ Letter to Cheney, Nov. 13, 1992 and Cheney response, Dec. 28, 1992.

³⁴² See testimony and discussion PP 362-372, Transcript of Hearings, December 1, 1992.

JSSA has examined the four debriefs reviewed by Senator Smith for any name anomalies and none were found. The JSSA is willing to conduct a similar review of a limited number of Committee-selected debriefs of special concern, in order to satisfy any specific questions the Committee may have regarding the 1978 list. However, the transcript analysis process is lengthy and the analytical resources available to the JSSA necessarily limit the cases that can be reviewed prior to issuance of the Select Committee's final report.

Your letter also asks whether returnees may review their own debriefs. We have a long standing policy that returnees may have visual access to the transcript of their debriefing but may not retain copies of the debriefing records. The debrief remains classified secret.

Finally, Mr. Codinha's letter requests the source of information for the homecoming computer listings and an unclassified copy of the final list of the names of missing men about whom the returnees offered information. The original sources for this database were principally the Phase I, II and III Egress Recap debriefer report messages. These reports were prepared by the officials who conducted the debriefings and were transmitted to Headquarters United States Air Force for entry into a database. As additional information was gained concerning the fate of missing Americans this database was updated. For example, names of individuals the returnees mentioned but who had returned to U.S. control, or whose remains were recovered, were not retained in this database. The Joint Services SERE Agency has researched its files for documentation relating to other possible sources for entry into this database, but has so far found none. The unclassified copy of the final list is at Enclosure 2.³⁴³

The committee request was in furtherance of a complete record, the suspicions surrounding the debriefing process, the DIA commentary on names appearing in returnee debriefs,³⁴⁴ and because the committee was denied access for a detailed review of the debriefings, the Committee again requested³⁴⁵ that DoD combine the work previously done on 51 of the approximated 350 names on the United States Air Force computer listing of the HOMECOMING debriefings, the work done on Senator Smith's list of 324 with those not completed to provide a comprehensive analysis of all the lists of names from the Homecoming debriefs.³⁴⁶

Discussion

The Committee repeatedly requested that DoD again conduct a full review of returnee debriefings. DoD declined to do so. The Committee Chairman and Vice Chairman were allowed access to the debriefings, but the volume precluded more than a sampling.

³⁴³ Assistant Secretary of Defense Letter, dated December 28, 1992 with enclosure 1 JSSA Memo, dated 11 December 1992, subject: Response to Sen. Smith's Comments in Open Hearing, Re Former POW Mulligan citing of "Collamore" as a Live POW. and enclosure 2 HOMECOMING (Egress Recap) Casualty Resolution Report dated 2 Sep, 1977.

³⁴⁴ DIA Commentary on Names Appearing in Returnee Debriefs December hearings.

³⁴⁵ Committee request to DoD, dated December 10, 1992.

³⁴⁶ USAF listing and DoD analysis please cite properly and add relevant portions to Annex.

The Committee then requested access by staff to conduct this review. DoD declined. "Therefore, the Committee has placed into the Archives the computer listings of the debriefing results and encourages the public to review these comments and draw their own conclusions.

The Committee urges DoD to conduct a full, independent review to clarify this issue for the public. The review should be undertaken by DOD staff and not assigned to the DIA, and the results should be provided to the appropriate oversight committees of Congress and made public.

INTER-AGENCY GROUP

As part of its review of Executive branch policy-making on POW/MIA issues, the Committee examined the origins and operations of a group that is little known to many Americans, but a group that has been the focus of POW/MIA policy-making for more than a decade: the Inter-Agency Group on POW/MIA Affairs (IAG).

The IAG's members include representatives from the Department of State (State), the Defense Department's International Security Agency (DoD), the Joint Chiefs of Staff (Joint Chiefs), the National Security Council (NSC), and the National League of Families (League). The Select Committee sought to determine:

- The IAG's precise role in formulating and implementing POW/MIA policies;
- The IAG's operating procedures;
- The effects on the IAG of the participation of a nongovernmental organization; and
- The extent to which IAG deliberations are accountable to Congressional and public review—or should be.

History of inter-agency groups

Inter-agency groups are common in the Executive branch of the U. S. Government. Since many problems involve overlapping jurisdictions or responsibilities, inter-agency groups have emerged as a means to coordinate policy and improve communication among agencies.³⁴⁷ They often pass recommendations up the line to "Senior Agency Groups" or "SIGs," to Deputy level meetings, and, if appropriate, to the Cabinet/Presidential level.

Several witnesses at the Committee's Dec. 1, 1992 hearing on the Inter-Agency Group testified that such bodies are useful in dealing with issues. Richard T. Childress, former Director of Asian Affairs in the Reagan Administration NSC, commented that:

Every important issue of priority in any administration has an inter-agency body that meets . . . to receive briefings, develop or implement policy, review progress, or complain to each other about how one participant or another is wonderful or defective in the overall task.³⁴⁸

³⁴⁷ For a discussion of this in the intelligence community, especially, see John And's *The Agency: The Rise and Decline of the CIA* (New York: Simon and Schuster/Touchstone, 1987), 687, 746.

³⁴⁸ Statement of Richard T. Childress before the Select Committee hearing on the Interagency Group, December 1, 1992.

Deputy Assistant Secretary Carl Ford agreed:

... if there hadn't been an IAG, I would have been forcefully advocating that one be formed.³⁴⁹

Creation of the IAG on POW/MIA affairs

The Inter-Agency Group on POW/MIA policy is unusual, however, because of its longevity. Most such groups have a much shorter lifespan and "go from issue to issue," Ford said, citing IAGs which coordinated policy during the Persian Gulf and Korean Wars.³⁵⁰

The IAG was established in January 1980 "to review and assess current events and policies [and] to consider future direction/policy to resolve the POW/MIA problem."³⁵¹ It offered a means of dealing with most key players: DoD, State, the League, and Congress. One early product was a revised statement of U.S. policy toward the live-sighting reports pouring out of Vietnam and Laos with the increased flow of refugees.

A year later, under the Reagan Administration, the DoD referred to the IAG as an "ad hoc PW/MIA inter-agency group, in which the DoD was actively participating."³⁵² Sometime thereafter the membership of the IAG changed to omit the Congressional component.³⁵³ It was unclear why that change was made, and the practice was not followed; the U.S.-Russia Joint Commission on POW/MIA's has "exactly that arrangement," with "staffers from the committee and staffers from the executive branch working together . . . doing the investigations together . . ." and that "the . . . Commission [in] which the Congress and Executive branch have worked together, has worked very well."³⁵⁴

Public accountability

The IAG has been the focal point of U.S. policy formulation on the POW/MIA issue for 12 years. The IAG as it now operates "oversees the overall U.S. Government effort." Further, it "cuts across all the departments in the executive branch that have a role [in the POW/MIA issue]."³⁵⁵ Its participants argue that the various agencies, departments, constituencies, issues, and policy matters involved make it necessary and all confirmed the centrality of the IAG to the effective pursuit of U.S. policy on this issue.

Despite its central role, penetrating the IAG's working has been difficult, and even such a basic question as how often it meets is not readily or fully answered by its present members. Still classified documents suggest there were at least as many meetings in 1992 as in 1991, but Deputy Assistant Secretary of State Kenneth Quinn, the IAG's current chairman, only could estimate that number (to be about 17).

³⁴⁹ Statement of DASD Carl Ford before Select Committee, December 1, 1992.

³⁵⁰ Ford Statement, December 1, 1992, p. 264.

³⁵¹ This is a quotation from a speech by General Richard L. Lawson, USAF, to the National League of Families on June 28, 1980.

³⁵² National League of Families, POW/MIA Factbook, 1982.

³⁵³ The DIA/IG Report, 24 March, 1983, p. 5, reported that the Congressional intelligence committees were represented on the IAG. However, consultation with the staff of both the House and Senate Intelligence Committees indicates that there was no such representation on the Interagency Group.

³⁵⁴ Committee hearings, December 1, 1992, 289-290.

³⁵⁵ Sheetz testimony, Dec. 1, 1992.

Other documentation of the IAG's working was elusive, a situation that generates natural concern:

When you are dealing with an issue that is as volatile as this, and you have got as many people crying conspiracy as you have, and then you have . . . this sort of entity . . . making decisions which has a special interest group, a non-governmental entity represented on it which has been the subject of criticism . . . do you not feel that you are just contributing to the problems of this issue by not having a record of openness?³⁵⁶

The IAG members' response cited the importance of the coordinating body, without addressing the central point about its secrecy.

During the first years of the IAG's existence, the chairmanship rotated among the executive agencies represented, as intended at its inception. In the early 1980's, however, because the issue is primarily a foreign policy matter, the Reagan Administration decided to maintain State Department representative as chair.³⁵⁷ From 1981 to 1989 chairmen were successively Ambassadors Daniel O'Donahue, John Monjo, and David Lambertson.

In October, the Committee wrote to IAG Chairman Quinn, requesting all records of IAG meetings—agendas, background papers, minutes, etc.—from 1981 to the present. He responded that records before 1991 were difficult to locate and later testified that “there was no record from [before] 1991.”³⁵⁸ The requested documents were delivered in classified form in late November and State later notified the Committee that it would not declassify five memoranda.³⁵⁹ Rules about the treatment of classified materials precludes the Committee from characterizing these memoranda, but investigators with the appropriate clearance have reviewed them.

During the Committee's hearing, Senators questioned the IAG's failure to keep regular minutes of its meetings. In the IAG's early days, there were informal notes of its meetings, Childress testified, but when the IAG “got rolling,” its members considered keeping minutes a waste of time. Common understanding of tasks and frequent telephonic communication made formal minutes unnecessary, he said.³⁶⁰

In this connection Ford noted that because actions flowing from IAG deliberations are taken by departments, the “records of the IAG are really found” in departmental records. In his words,

. . . if we came back from an IAG and tried to write up what had happened, it would have already changed before it could have made any impact . . . where you find the paper is when the IAG would get to a point where it was important that our superiors knew . . . what was going on, had to make a decision, and at that point a decision memoran-

³⁵⁶ Committee hearings, December 1, 1992, 284.

³⁵⁷ Statement of Ann Mills Griffiths, December 1, 1992.

³⁵⁸ Transcript of hearing, December 1, 1992, 281.

³⁵⁹ Phone message from Mr. “Ike Eisenberg” (as heard) to Jon Holstine, Tuesday, December 1, 1992. The other memos referred to include memoranda dated March 8, 1991, March 12, 1991, March 29, 1991, and April 27, 1992, and an undated memorandum from Kantor to (Assistant Secretary) Solomon.

³⁶⁰ Transcript December 1, 1992, 281.

dum from Defense, and, I'm sure, State and the NSC would go forward to the Secretary of Defense, Secretary of State [and] the President on these issues.

In fact, Ford said it was not his organization's practice to take notes at IAG meetings.³⁶¹ In other words, a paper trail was left by the agency taking action—not the group recommending that it do so.

Current IAG Practices

In its hearing, The Select Committee learned that the IAG on POW/MIA matters still meets at least twice a month. The agenda for the meetings is set by consultation among participants, and each agency prepares in advance for meetings. Regular attendees are representatives from the Joint Chiefs, DoD's OSD/ISA, NSC, State, and the League. In addition, the head of the Special Office on POW/MIA Affairs within DIA is normally present in an advisory capacity.³⁶²

According to testimony before the Select Committee, the IAG works by consensus. Participants provide in advance some idea of their concerns for the meeting, and the meeting deals with those concerns in a fairly informal manner. None of the witnesses specifically answered whether the IAG normally conducts formal votes on issues; it appears that general agreement is reached by informal discussion.

Ford explained that repeated telephone calls among the participants made the IAG's deliberation an on-going process. The Committee questions the practice of at once conducting closed-door meetings while—at the same time—discussing the meetings' substance by phone. The purpose of secret meetings should be either (1) to discuss classified information inappropriate for discussion by phone, or (2) to discuss policies which require the coordination of several participants.

Policies affected by the IAG on POW/MIA affairs

The IAG affects a broad range of issues, characterized by League representative Ann Mills Griffiths as: a wide variety of POW/MIA related actions, such as intelligence collection and analysis, diplomatic initiatives, communication with family members, Congressional endeavors, and public awareness activities.³⁶³

A frequent subject appears to be the "Road Map," the still classified declaration of U.S. policy of April 1991 that the U.S. relies upon to measure Vietnam's cooperation on POW/MIA and other matters as it moves toward normalization of relations.³⁶⁴ Other POW/MIA-related topics have included the Orderly Departure Program, by which the Vietnamese permit their citizens to emigrate through normal channels rather than by fleeing in boats or overland, and potential private assistance to the Vietnamese in humanitarian areas such as prosthetics for the war-disabled. Because of the significant Vietnamese influence in Southeast Asia, and its im-

³⁶¹ Hearing transcript, December, 1, 1992, 283.

³⁶² Sheetz testimony, December 1, 1992.

³⁶³ Statement of Ann Mills Griffiths, December 1, 1992, 3.

³⁶⁴ Statements of Carl Ford and Kenneth Quinn, December 1, 1992, 3 and 1, respectively.

plications for other nations of the region, the progress of relations between the United States and Vietnam involves broad diplomatic issues. Not least of these is a final, internationally acceptable peace in Cambodia, which is reportedly an element in the "Road Map."

A survey of conversations between the U.S. and Vietnam from 1982 to 1992 suggests that IAG membership was a fair indicator of involvement in the conduct of bilateral relations. Griffiths participated in at least 20 of the 25 official and semi-official meetings with the Vietnamese examined. In view of Griffiths' membership on the Inter-Agency Group, it can be argued that she can not conduct an unofficial conversation on the POW/MIA subject.

Griffiths identified intelligence management as an issue in which the IAG has been active. Because of the close connection between the policy and intelligence functions in the POW/MIA issue, two related questions arise:

How often has the Inter-Agency Group gotten involved in examining live-sighting reports during or prior to the analysis of intelligence information? The IAG apparently reviewed live-sighting reports for a year in 1986-1987, as appears in the "SI report."³⁶⁵ Childress told the Committee that the IAG injected itself in the live-sighting review process for two reasons. First, during the period in question, DIA was being criticized for the way it handled live-sighting reports and the IAG wanted to better measure DIA's performance. Part of that effort involved conducting final reviews of DIA's decisions. The IAG also sought to provide protection, where appropriate, to the DIA's efforts.³⁶⁶

A related question is whether the IAG was involved in work with casualty files. For example, the Committee found that Ford was involved in a late November 1992 meeting that reached a final determination about several casualty cases. One explanation of this kind of interaction of policy-making and intelligence analysis, put forth by Childress, is that the whole (addressed by policy-makers) is the sum of its parts (resolving individual cases or changing their category, such as from MIA to KIA/BNR). Another is the link the IAG can provide between DIA and service casualty officers, ensuring family members learn quickly about new developments.³⁶⁷

³⁶⁵ The Interagency Group passed on live sighting reports for almost a year, from April 28 1986, to March 2, 1987. Thereafter (as of March 27, 1987), the Interagency Committee or IAG took over this function. Chaired by the Director of the Special Office for POW/MIA, the IAC is composed of representatives from the CIA, each service intelligence agency, the Joint (chiefs) Staff, ISA (office of the DASD for POW/MIA), and the State Department's Bureau of Intelligence and Research. The IAC requires unanimous agreement to approve DIA recommendations, and meets in secure areas. The "SI Report" is one of DIA's computer data bases for POW/MIA information.

³⁶⁶ Telephonic conversation between Jon D. Holstine, Select Committee investigator, and Richard T. Childress, December 9, 1992. Mr. Childress agreed to speak for the record.

³⁶⁷ Telephone conversation between Holstine and Childress, December 9, 1992. Childress also pointed out that due to normal rotation of casualty officers, patterns of cooperation had to be constantly renewed. Thus the IAG sought to "re-educate" the new casualty officers.

The league's influence over government policy

An early example of League influence in POW/MIA matters is its efforts to work with members of Lao resistance forces in the early 1980s. The timing of this episode was important to League involvement on the IAG.

Throughout the 1979, the POW/MIA issue received a low priority despite public statements of concern; in 1979, the national intelligence priority assigned the POW/MIA issue was at the lowest U.S. national priority—Priority 7.³⁶⁸

In 1979, with the increase in refugees from Vietnam following Vietnam's invasion of Cambodia and the onset of open border fighting between Vietnam and China, there came a not unexpected increase in both refugees and reports. Many of these reports were "first hand live sightings" and they energized the National League of Families into pushing for greater emphasis on the POW/MIA issue.³⁶⁹

DIA faced the increased workload and political pressure with a staff of only eight; ³⁷⁰ a team of field interviewers was organized as a short term measure to handle to increased reporting.³⁷¹

The reports came not only from Vietnam, they also came from Laos, one asserting that U.S. POWs had been moved from North Vietnam to northern Laos and then southward to the area in Khammouane Province.³⁷² This was one basis for a still classified covert foray from Thailand into Laos in the spring of 1981. The operation failed to locate any POWs. The source of that original report stated to other American POW/MIA operatives later that summer that he had no information on any live POWs, challenging the credibility of the report and suggesting that it was fabricated in order to win U.S. support for the Lao resistance.

Other reports about live POWs in Laos arrived but were often not what they first appeared to be. One National League of Families associate, Robert Schwab, was operating in Thailand at this time, searching for POW/MIA information. Information Schwab forwarded to the League (which in turn provided it to DIA) included new assertions of live POWs in Khammouane Province who had been the target of a rescue attempt by the Lao Resistance in 1979.³⁷³ His source was the Lao Resistance.

Numerous documents detailed the League's position that these firsthand live sighting reports demonstrated the likelihood that there were still live POWs in Indochina and demanded immediate attention.³⁷⁴

When Robert Garwood returned from Vietnam in early 1979, the POW/MIA issue regained national attention and a top-level inter-agency group was formed.³⁷⁵ The National Security Council staff

³⁶⁸ Memorandum 1381/DP-1, 25 September 1979, Charles F. Trowbridge, Jr., Annual Review of Intelligence Priorities for Strategic Planning (IPSP).

³⁶⁹ George L. Brooks, Board Meeting Refugee Committee Report, November 20, 1981.

³⁷⁰ 1,079/DI-7C, DIA Organizational Chart, Prisoner of War and Missing in Action Branch, and related documents.

³⁷¹ DIA (DI-7C) Staff Summary Sheet, DIA Form 1, and related documents 26 December 1979.

³⁷² Message From DIA (DI-7C), 272009Z Dec 79, Subj: Alleged Reports of U.S. PWS Being Detained in Cave Areas of Laos.

³⁷³ Message From DIA (DI-7C), 271740Z Dec 79, Subj: Alleged US PW Recovery Operation.

³⁷⁴ George L. Brooks, Board Meeting Refugee Committee Report, November 20, 1981.

³⁷⁵ Memorandum For PW/MIA Interagency Group and related handwritten notes.

member responsible for the area coordinated issuance of a White House statement on the increased volume of reports from refugees.³⁷⁶

By 1981, the number of reports of live POWs was increasing. The principal office receiving such reports was the Joint Casualty Resolution Center field element in Thailand, under the direction of Lieutenant Colonel Paul Mather. The office had several field interviewers but was soon swamped by the quantity of information it received. Few reports could be given the detail they deserved.

While DIA and the JCRC were focusing on live-sighting and dog-tag reports, reports of human POW remains received little attention. A spate of activity began in the early summer of 1981 with the arrival in Thailand of four skulls. Schwab advised DIA he would get information from Ann Mills Griffiths on July 13, 1981, about the possible recovery of four skulls by the Lao resistance in southern Laos.³⁷⁷ DIA was already aware of the report, having been advised by Griffiths on July 10th that a resistance group with four skulls had been taken into custody by the Thai.³⁷⁸

The U.S. Embassy in Bangkok, Thailand viewed this sudden flurry of reports about remains and the heavy involvement of Schwab and ABC News as an orchestrated "... major media event. ..." ³⁷⁹ The Embassy added "... both Schwab and the ABC rep clearly implied initially that they would make it known that we were being less than cooperative on this issue if we didn't agree to their condition." The remains came into U.S. custody within three hours of the time the Embassy first learned of the skulls' existence.

On July 28, 1981, a meeting of State, DoD and NSC staff, chaired by then-Assistant Secretary of State for East Asian and Pacific Affairs, John Holdridge, discussed the issues of working with the Lao resistance forces in order to get the remains of American servicemen, and the U.S. policy not to pay for remains.³⁸⁰

On-going negotiations were also discussed, with John Negroponte and Richard Armitage mentioned as potential emissaries to the Vietnamese Ambassador at the United Nations in New York. A high level mission to Vietnam was also considered.

On July 30, 1981, Admiral Paulson requested the appropriate DIA element research the Lao resistance forces to help answer the question "... as to whether it may be more profitable (strictly in terms of accounting for U.S. MIAs) for the U.S. to deal with the Lao resistance forces or attempt to continue to secure a full accounting from the LPDR." ³⁸¹ The assessment was also to consider the possibility of penetration by Lao or Vietnamese hostile intelligence services or even allied resistance groups such as those under former South Vietnamese Army Colonel Vo Dai Ton.

³⁷⁶ National Security Counsel Memorandum from Robert M. Kimmitt to Michael Gellner, April 30, 1981.

³⁷⁷ DIA (DI-7C) Message, 15 July, 1981, Subj: Recovery of Human Remains From Laos.

³⁷⁸ Ibid.

³⁷⁹ Message From American Embassy, Bangkok, 191041Z Jul 81, Subj: Prisoner of War - Missing In-Action Matters.

³⁸⁰ Memorandum For Record, Charles F. Trowbridge, 28 July 1981, Subject: PW/MIA Meeting.

³⁸¹ Memorandum to DI-7, Subj: Assessment of Lao Resistance Forces, 30 July 1981.

League employees and JCRC were not the only persons searching for POW/MIA information from Laos and Thailand. Early in August 1981, staff members of Soldier of Fortune magazine contacted JCRC coincidental with SOF's own effort to establish Camp Liberty, a base for Chinese trained Hmong resistance forces in northern Laos.³⁸² During this period, SOF had contacts from time to time with the various private Americans operating in Thailand and collecting POW/MIA information.³⁸³ SOF also learned quickly that a major POW/MIA information peddler, Phoumi Nosovan, operated from the area of Nakhon Phanom, Thailand, and that he was notoriously unreliable and someone to avoid.

DIA found itself under more pressure due to the escalating issue of first hand live sightings and the DIA Director's new stance on the issue. Congressman Charles E. Bennett had written to Lieutenant General Tighe on July 24th to obtain General Tighe's clarification of his statement that "American servicemen are alive and being held against their will in Indochina."³⁸⁴ Rear Admiral Burkhalter, DIA's Chief of Staff, reiterated General Tighe's official DIA position that "of all of the live sighting reports of American prisoners in Southeast Asia, which have been investigated by DIA, none could be verified."³⁸⁵ Admiral Burkhalter clarified the General's remark as his personal opinion but not DIA's official position.³⁸⁶

In fact, DIA had received information about three purported Americans seen in Hanoi (one of whom was Garwood by a North Vietnamese defector, the same source as the highly credible information about Vietnam's warehousing of approximately 400 human remains in Hanoi.³⁸⁷

Also, just two months earlier, in May, 1981, Rear Admiral Jerry O. Tuttle, DIA's Assistant Vice Director for Collection Management, faced with a request from the U.S. Marine Corp's trial counsel at the court martial of PFC Robert Garwood, decided to stone-wall.³⁸⁸ The trial counsel had requested that DIA declassify information from the North Vietnamese mortician concerning three Americans he had seen in Hanoi. Implicitly, such information might have been helpful in Garwood's court martial,³⁸⁹ but Admiral Tuttle followed General Tighe's standing decision to classify all live sighting reports of Americans received after August 1, 1979, and denied the request.³⁹⁰

As the skeletal remains were being processed by JCRC for shipment to the CIL, DIA completed its assessment of the Lao resistance forces. Their conclusion was that the resistance effort was fragmented and with little coordination between groups. It was not

³⁸² Message to DIA, 080730Z Aug 81, and related documents.

³⁸³ Ibid.

³⁸⁴ Letter 0513/DI-7, 14 August 1981, from DIA to Hon. Charles E. Bennett, U.S. House of Representatives.

³⁸⁵ Ibid.

³⁸⁶ Ibid.

³⁸⁷ 1118/DI-7, Memorandum for the National Security Council, Mr. Michael Oksenberg, Staff Member, 21 November 1979, Subj: U.S. Government Policy Consideration.

³⁸⁸ Memorandum 10212/PI-7, 5 May 1981, Subj: PW/MIA Daily Report.

³⁸⁹ Ibid.

³⁹⁰ Ibid.

seen as a threat to the Lao government and was "... a poor single focus for the U.S. MIA efforts."³⁹¹

Nevertheless, the DIA analysts concluded the Lao resistance could travel through Lao government control areas to search for grave sites using small covert reconnaissance teams. Such an effort would be feasible "... if the resistance element was strongly motivated and the U.S. interests represented by trusted indigenous personnel." Lao tribesmen could also assist in searching for crash and grave sites.³⁹²

As to hostile intelligence, there was ... a possibility that the LPDR or SRV intelligence services have infiltrated the resistance movement. The group least likely to be penetrated was non-Lao. DIA concluded with a recommendation ... to pursue both overt pressure on the LPDR and their Soviet and Vietnamese supporters and covert efforts through Lao resistance forces ... the potential for success appears greater utilizing a covert action program. However, the "risks" inherent with such a program are also greater.³⁹³

In its more formal assessment, DIA analysts clearly favored two major resistance groups; the Hmong in northern Laos and the Lao People's United National Liberation Front headed by Phoumi Nosovan.³⁹⁴

The DIA assessment was completed just as a message arrived at DIA from the U.S. Embassy in Bangkok.³⁹⁵ It provided the most recent information on the Lao resistance and the operations by the Thai Government's Special Group 917 which had coordinated a meeting of Lao resistance groups on June 1, 1981, in Udorn, Thailand. Splintered and with close links to the Khmer Rouge, Chinese and Thai, one acknowledged resistance contact was former Lao General Phoumi Nosovan.

On August 31, 1981, Paulson forwarded DIA's formal assessment to the State "... for consideration and possible use in the development of new approaches/initiatives in support of U.S. Government PW/MIA efforts."³⁹⁶ With the assessment, Paulson forwarded what he described "a summary of recovered American remains reportedly obtained by resistance elements ..." Two Americans, Vincent Donahue and Robert Schwab, were private citizens who, in addition to JCRC, had recovered remains since December 1979 which, on the surface, would support DIA's carefully worded endorsement for the resistance option.³⁹⁷

On September 16, 1981, Paulson submitted CIL-HI's analysis of human remains obtained by U.S. citizens from the Lao resistance.³⁹⁸ All turned out to be Mongoloid remains and not remains of the Americans lost in the incidents to which they purportedly related.

³⁹¹ 0588/DI-7, Message to Department of State, 27 Aug 81, Subj: Assessment of Lao Resistance Force, and related memoranda.

³⁹² Ibid.

³⁹³ Ibid.

³⁹⁴ Ibid.

³⁹⁵ Message to Secretary of State, 171308Z Aug. 81, Subj: Lao Resistance Continues to Find Unity Elusive.

³⁹⁶ Summary, Remains Received From Laos.

³⁹⁷ Ibid.

³⁹⁸ 10647/DI-7 Memorandum, 16 September 1981, Subj: PW/MIA Daily Report.

Robert Schwab had turned over approximately two pounds of bone fragments to JCRC on July 13th. He described receiving them from Lao resistance associates who stated they came from a C-130 downed in southern Laos on December 21, 1972. Brooks turned over three skulls plus fragmented remains from four individuals to JCRC on August 13. They, too, had reportedly come from a member of the Lao resistance. Both turn overs and their linkage to the Lao resistance were described as receiving considerable network coverage, creating a favorable climate for the July 28 meeting about whether to support the Lao resistance.

The CIL analysis was sufficiently noteworthy for DIA analyst S. Ferro to submit a current intelligence item drawing attention to the CIL's conclusion the remains were Southeast Asian Mongoloid rather than American.³⁹⁹ Ferro attributed the incident to another "example of the manner in which the communist government and other groups in Southeast Asia have attempted to manipulate the PW/MIA issue to their advantage." Nevertheless, there was no hint that any members of the fragmented Lao resistance, or any private Americans working with them, were part of the manipulation.

Discussion of league's role

The IAG appears to be singular in its longevity and the close connection between private interests and U.S. Government actions that the League's membership on the IAG effectuates. This unorthodox situation has only a tenuous parallel in the occasional use of private consultants, whose involvement is almost always peripheral. The League's central role—often as the driver of Government policies—raises serious questions about whether it has unduly influenced U.S. policy, and whether official Government bodies have unduly interfered in the operations of a private group.⁴⁰⁰

Certainly the presence of an unelected, unappointed citizen—with access to both classified material, including intelligence, and a special exemption to privacy rights guaranteed to individual next-of-kin and not to any group purporting to represent them—to the processes by which the intelligence is analyzed and evaluated, during the time it is being analyzed, is unique.

This involvement is widely criticized by some activists, including some families. It is a criticism publicly leveled by Col. Millard Peck when he resigned as head of the Special Office for POW/MIA affairs in March, 1991. And it was critically mentioned in a DIA Inspector General's report of March, 1983.

... Ms. Griffiths was to have visual access to ... selected case files and reports, [but] her access to (and retention) of PW/MIA data became so pervasive ... that the PW/MIA staff gave her and her assistant director weekly briefings on various topics of their choosing ... [Later]

³⁹⁹ S. Ferro, DI-7C, Current Intelligence Article, 18 September 1981, and related documents.

⁴⁰⁰ Some former members of the National League of Families Board of Directors have reported that Childress during his tenure as NSC's Director for Asian Affairs threatened to withhold U.S. government cooperation from the League if Griffiths was not retained as executive director. See copies of excerpts of minutes of the League's Board of Directors, which suggest Childress's interest in the League's operations.

Ms. Griffiths would exercise her contacts in J-5 [Joint Chiefs] who would order up DIA information for her. More recently, her entree to PW/MIA intelligence has been principally through a staffer on the NSC who . . . apparently supplies her with whatever she desires. She presently sits on the IAG on PW/MIAs, which deals with policy matters at the national level . . . While her direct access to DIA intelligence had been largely suppressed . . . she still had access through the IAG and her contact at NSC.⁴⁰¹

Griffiths' complete access to the DIA's PW/MIA office, including an ability to assign tasks to intelligence analysts, the report added, had a "chilling effect" on them.⁴⁰²

There are acknowledged benefits to Griffiths' involvement as well. Witnesses noted that her involvement had "been useful to the U.S. Government in that much of the acrimony of the post-war years had subsided." Rear Admiral Allan G. Paulson, then Director of the PW/MIA office, found Griffiths' security clearance and involvement to have been a "net advantage to DIA and the Government for the reason addressed in the commentary [improved relations between the Government and the families]." ⁴⁰³

At a public hearing on the IAG, Griffiths' IAG colleagues generally defended the League's participation—as represented specifically by Griffiths—as productive and helpful. Ford responded to Committee questions concerning her involvement with high praise:

. . . the National League of Families, represented by its Executive Director, Ann Mills Griffiths, has been the heart and soul of the IAG since its inception . . . much of what the IAG has accomplished would not have been possible without Ann's tireless efforts over many years.⁴⁰⁴

Similarly, Childress said:

An inter-agency group without the League represented would lead to a higher level of destructive "group think." Being an NSC staff member I was able to interface with all relevant departments and agencies at all levels, both here and in Asia. To institutionalize the effort, it was necessary. The League representative on the IAG, Ann Mills Griffiths, due to her 20-plus years of experience and continuity on the issue, now through five administrations, was the only other participant in the IAG who could reach out easily to all levels . . . without the National League of Families, POW/MIA would not be a national priority today, there would be no IAG, no DIA POW/MIA division, no Presidential Emissary . . .⁴⁰⁵

⁴⁰¹ The DIA/IG Report, 24 March, 1983, 12.

⁴⁰² Ibid.

⁴⁰³ The DIA/IG Report, 24 March, 1983, 5-6, 10.

⁴⁰⁴ Ford statement, December 1, 1992, 2.

⁴⁰⁵ Childress statement, December 1, 1992, 3.

Discussion

It is difficult to say whether statements from interested parties constitute a definitive answer to the questions raised by the central involvement of an unelected, unappointed private citizen with sensitive and significant negotiations, and in forming the policies that undergird those negotiations. Throughout the Committee's investigation, it has heard private comments of officials at all levels of Government that refute the praise accorded Griffiths in public comments. It has heard tales of political terror from those who have crossed her, as well as stories of productive works.

Griffiths' long involvement in the POW/MIA issue makes her an unusually influential figure without formal membership in the IAG; whether different policies would have been developed had she not participated will never be known.

The Committee finds wisdom in the principle of Government's maintaining an arm's-length relationship with private organizations, no matter how noble the issue and efforts of the organization. To be accountable to the American public, a proper relationship should delineate Government from private-sector efforts. Therefore, the committee recommends that the role of the IAG, and its present composition, be re-evaluated by all involved agencies and Congressional oversight committees, with a bias against its continued joint operation with a private organization.

INVESTIGATION OF OFFERS

I would not have been surprised at all if they had, three months later, [after the Paris Peace Accords], told us that they had just discovered 50 prisoners and wanted \$2 billion for them. But that did not happen.⁴⁰⁶

This opinion, voiced by Henry Kissinger during his deposition to the Select Committee in 1992, reflects a suspicion maintained over 20 years by some POW/MIA families and others that POWs both remained in captivity after the signing of the Paris Peace Accords and would be the subject of Government to Government contact leading to a "buy back" of American POWs. The Committee has found no convincing evidence of any such offer being made. There were, however, two incidents which require further explanation and prove illustrative of the problems relating to this issue.

The 1981 alleged offer

The Committee received information that President Reagan had received an "offer" in early 1981 transmitted through a third country (Canada and/or China) of an offer by the government of Vietnam to sell live POWs to the U.S. for \$4.5 billion dollars. The source of this information was a Secret Service agent who allegedly was present and overheard part of a meeting in the White House where this matter was discussed.

The agent reportedly overheard President Reagan discussing this offer with Vice-President George Bush, Richard Allen (National Security Adviser) and William Casey (CIA Director). The conversation reportedly took place in the Roosevelt Room, as the four were

⁴⁰⁶ Kissinger deposition, pp. 158-159.

walking from the Oval Office to a meeting in an adjoining conference room. The agent reported that James Baker (Chief of Staff), Michael Deaver (Deputy Chief of Staff) and Edwin Meese (Attorney General) were waiting in the area of the conference room for the meeting to begin, but he was unsure whether these individuals would have heard any of the conversation.

The Committee treated this report seriously and first attempted to depose the Secret Service agent. Objections were raised by the Department of the Treasury and the Secret Service claiming that such a deposition would forever impair the ability of the Secret Service to guard the President.

The attorney for the agent, J. Thomas Burch (Chairman of National Vietnam Veterans Coalition), explained that the agent would not testify without permission of his agency or a subpoena from the Committee. As an interim alternative to taking the deposition of the Secret Service agent, the Committee told the Administration that it would attempt to substantiate the source's story through the deposition of other potential witnesses.

The Committee deposed several of the individuals reported to be in the general area where the conversation allegedly took place, but none of these individuals said they could recall such a conversation. Of those reported to have actually participated in the conversation, only Mr. Richard Allen was deposed.

Mr. Allen testified as follows:

Q: Changing to another subject, soon after taking office, did the Reagan Administration become involved in an offer made by the Vietnamese government for the return of live Prisoners of War, if you can recall?

A: Very shortly after they came over?

Q: Well, at any time while you were National Security Adviser. I don't want to limit it.

A: The figure of \$4 billion seems to stick in my mind, and I can't remember whether that was during my time in all of this or not.

I do recall having once written in my life, either in notes or in a memorandum that it was certainly worth talking about, \$4 billion for the return of POWs and MIAs, and that under any . . . I might be able to find those papers

Q: Okay, do you recall whether the \$4 billion was for live American prisoners?

A: Yes, I do. If it was for \$4 billion, it was indeed live prisoners . . .

. . . First of all, my reaction (was that) \$4 billion for live hostages sounded somewhat preposterous to me at first. I was obviously for getting into a discussion, at least getting into a discussion about it.⁴⁰⁷

Mr. Allen sent a letter to the Committee on July 21, 1992, clarifying his testimony. He said he had located a copy of his notes (which he attached) of a meeting on September 24, 1986 at which Capt. Red McDaniel, John M.G. Brown, John Malloy, Mike Milne,

⁴⁰⁷ Allen deposition on June 23, 1992, pp. 83-84.

J. Thomas Burch, and Bruce Rehmer told Allen of the alleged meeting in 1981. Rep. Billy Hendon also appeared in Allen's notes as someone he had discussed the alleged meeting with. In summary, Allen wrote:

It appears that my uncertainty during the deposition was justified, and that there never was a 1981 meeting about the return of POWs/MIAs for \$4 billion.

It becomes clear that my recollection of having written these notes referred to events of 1986, not 1981. During the meeting with Capt. "Red" McDaniel and others, I recall having been surprised by their view that some sort of "cover-up" or "conspiracy" had taken place, and I now recall advising them there were no such meetings in the Roosevelt Room. President Reagan rarely came to the Roosevelt Room, and for very sensitive matters such as a discussion of this quality, it would have taken place only in the Oval Office.

Contact was also made with the Government of Canada as well as several lower level employees of the Department of State and the CIA who should have known about this incident if it occurred. None of the deposed individuals (with the exception of Allen previously noted) confirmed that such an offer was ever made.⁴⁰⁸ An extensive review of all pertinent documents from the State Department, CIA and NSC failed to disclose any evidence of this offer.

The Committee regrets that the Secret Service agent was unwilling, out of concern for his job, to testify concerning his report. Faced with this unwillingness, the Committee was divided about whether to compel the agent's testimony by issuing a subpoena. Some Members agreed with the Administration that compelling the testimony of a Secret Service agent concerning a conversation involving the President would set a harmful precedent, and felt that the agent's report was, at best, uncorroborated by the testimony of any other witness. Other Members felt that the agent had waived his claim to special consideration by talking to others about what he had reportedly heard, and that his testimony might contribute significantly to the Committee's investigation. After a lengthy debate, the Committee voted 7-4, with one Senator absent, not to subpoena the testimony of the Secret Service agent.

The Committee notes that, during its investigation, information was uncovered indicating that Mr. Allen had a discussion with Vice-President Bush in January, 1986 concerning his recollection of the alleged offer. This conversation was allegedly the result of an early January, 1986 meeting involving President Reagan, the Vice-President, then Congressman Bob Smith and former Congressman Bill Hendon. During the meeting, the Congressmen inquired about

⁴⁰⁸ However, in December, 1992, the Committee also deposed Mr. Max Hugel, CIA's Deputy Director for Operations in 1981, and a personal friend of then CIA Director William Casey. Mr. Hugel testified under subpoena. Several months earlier, Sen. Smith states he was told by Mr. Hugel that he was, indeed, aware of the offer—that it was common knowledge at the higher levels in the intelligence community. He further told Sen. Smith that the date January 26, 1981 was a date he associated with the offer, and that the POWs were to come out of Laos. The Senator states that he was told by Mr. Hugel that he did not wish to come in to testify, but would do so under subpoena. During his deposition, he testified that he had no knowledge of an offer, nor remembered telling anyone he had.

a possible offer involving live POWs in 1981. Both President Reagan and Vice-President Bush told Congressman Smith that no such offer concerning live POWs had been made. Notes from then Vice-President Bush and from former Congressman Hendon's office confirm that a conversation was reported to have taken place between Mr. Bush and Mr. Allen concerning the alleged offer.

The third country (ASEAN) offer

I. Irving Davidson (a civilian with NSC contacts) reported in 1984 that, according to his contacts with highly placed officials of an ASEAN nation, it appeared that individuals in the government of North Vietnam had indicated that the Vietnamese would welcome an approach by the U.S. to discuss the POW issue. The early reports relating to this subject indicated that the discussions were to cover the sale of both warehoused remains and live POWs ("breathers").

In late 1984, a high-ranking retired general, who was a member of the National Security Council of the ASEAN nation, discussed this matter with Richard Childress of the NSC who, with the concurrence of Robert McFarlane (National Security Adviser to President Reagan), traveled to Vietnam to investigate this report. Declassified documents indicate that Assistant Secretary of State Paul Wolfowitz informed Secretary of State George Shultz of a plan to pay for remains and "possible live POWs" in a January, 1985 memorandum marked "super-sensitive." The memo stated that Mr. Childress intended to fund the initiative with either CIA or private funds. Mr. Childress later reported that he had followed up the possible offer, but that it led to a discussion only of remains. The Committee did not consider the matter satisfactorily resolved by the reports filed and viewed that open questions remained as to what had actually occurred.

In 1992, the Chief Counsel to the Select Committee and a Committee Investigator travelled to the ASEAN nation to investigate the alleged 1984 live American offer. Committee investigators met with Government officials and with the General and his brother, the individuals allegedly knowledgeable of the earlier offer. Their stories proved inconsistent. The general's brother remembered offers for live POWs having been made, while the general stated the offers were for remains only. More specifically, the general said that the Vietnamese wanted several hundred million dollars in return for the remains of 50 Americans. The general also said that, at some point, Mr. Davidson had called him to say that the "deal was off because of leaks." Both men indicated that if the Committee desired, the North Vietnamese channel could be reopened for the continued discussion of purchasing remains. The Committee indicated that the U.S. Government was always interested in recovering remains of missing servicemen but that the U.S. Government position remained that no payment would be made for the remains.

Subsequently, the U.S. Embassy in the ASEAN country contacted the individual who had initially travelled to North Vietnam to discuss the remains/live POW subject. According to the Embassy's report, the individual says that although the Vietnamese official with whom he dealt did not say specifically that there were live POWs, he did say that his government did not control all lower

level Vietnamese officials, and that Vietnam needed financial assistance if it were to find missing Americans or their remains.

In summary, the Committee could not conclusively determine whether individuals in the government of North Vietnam discussed the possibility of there being live POWs in 1984; the Select Committee does find that the sale of remains was discussed.

REMAINS RECOVERY EFFORTS

For many families, a serviceman's remains may be the only answers there are to questions about his fate. Crash and grave-site excavation remain a high priority, just behind investigating live-sighting reports because, in the words of Maj. Gen. George Christmas:

[Families] want them to walk out of the jungle and come home, but they will tell you very quickly that "if that can't be the case, please end the uncertainty for me. Give me something so that I can put this to rest, I've been with it so long."⁴⁰⁹

Recoverable remains

Of the 2,546 unaccounted for servicemen as of 1977, no more than 1,339 were expected to be accounted for, according to a March 1977 DoD briefing of the Woodcock Commission. Of these, the remains of 436 men were determined by their battlefield comrades to not be recoverable; many were lost over water, or disappeared in a fireball when their planes were hit by enemy fire or crashed.

Another 772 were men whose fates DoD did not think the Vietnamese and Lao knew (344 in Category 3 "Doubtful Knowledge," plus 428 in Category 4 "Unknown Knowledge.")

To get the fullest possible accounting, however, American teams need to be on the ground to do the accounting job properly. That was the message Dr. Shields delivered to the Commission in 1977; U.S. teams had not gotten access.⁴¹⁰

Vessey "Sensibility Check"

Another approach to attempt to gauge what remains are recoverable was suggested by Gen. Vessey:

General VESSEY. Well, I think that we need to look at what we know about remains. And there are certain things we know. One is that the Vietnamese did have—did issue instructions to their subordinate military and political authorities for what to do with American casualties, whether they were alive or dead. And if they were dead, what to do with them.

And the DIA has constructed a good briefing on the steps that were in this Vietnamese process, and the first was that they were to—for example, if there were an air crash they were to find—the local people were to find the crash, find the pilot if he were alive, capture him; if he wasn't alive, find the remains then bury them on the spot

⁴⁰⁹ Christmas testimony, Nov. 5, 1991.

⁴¹⁰ Transcript, Briefing of Woodcock Commission by Dr. Roger Shields, p. 7.

and then report the location of those—of the grave to the central authorities. And then the central authorities clearly had a system for recovering those remains at a later date, some 2—some 1, 2, to 5 years later, and then sending those remains to central storage.

Now there are a wide variety of theories, now, on what that produced in central storage. We have the case of the mortician whose evidence at least is credible in the terms of he said he saw this and that's one set of eyes. It's not clear how many he counted and so forth, but clearly he says he worked on 230 sets of remains himself. So that's quite good evidence.

Now, the question of whether or not there are still hundreds in storage is the basic question. I've taken the four-step DIA model, which some people say produces X hundred still there despite the fact that 500 sets—or actually about 400 of might-be-Americans have been returned—that it still produces maybe 500 sets in storage.

So what I did is I took the four-step model and assigned subjective probabilities to each of the four steps, because it's a compound probability problem. I went to the Air Force and I said what percentage of peacetime crashes produce remains, and the answer is 70 percent. So you start out with the .7, and certainly the war-time probably can't be any better than .7.

Then you say well, what's the probability, then, of the people finding the airplane and the remains and recovering them and burying them. Well, if it crashed in a local area I'm sure it's close to .1—or it's 1, but if it crashes in a remote area, I don't know what it is. So I said well let's just say .7. Maybe that's good, maybe it's not, but it's not bad for starters.

Then what's the probability of the grave being reported accurately from people who buried the remains without a map reporting its location, and then its surviving the three things that would effect it. That is the Southeast Asian weather and scavenging, which was taking place, we know, and general shifts in the terrain due to other matters.

I don't know what that probability is, but say it's .7. Then what's the probability of going back 2 to 5 years later and finding that grave that was reported—whose location was reported by people who didn't have a map. Say it's .7. If that—if all those are .7, then the product of the compound probabilities is about .24, which means about a quarter of the air crashes in North Vietnam would have produced remains in central storage.

If you don't like those probabilities, raise all the other probabilities except the .7, and you still only come up—if you make them all .9 it doesn't get any better than .5. Now maybe the Vietnamese were better than that. I doubt it. So what I say is the number of remains that some people expect to be in storage is too high. It doesn't stand the sensibility check.

Warehousing remains

In 1979, a mortician from Vietnam defected. He testified before Congress during the early 1980s that he had processed 452 sets of remains, which he believed were those of U.S. servicemen, during 1975-76 and that the Vietnamese had "warehoused" them. The mortician expressed the belief that the remains were to be used to gain diplomatic and other concessions from the U.S.

The mortician met with Committee investigators in late 1991 for two days of depositions. He testified at length about his previous testimony, including a statement that he had seen Robert Garwood and two other Caucasians whom he believed were Americans in Vietnam during the late 1970's. The mortician stated that he had advised DIA as early as 1982 that he could identify certain remains upon which he had worked by the way they were put into their caskets. He also stated that he could identify other remains by unique factors that related to the bones he had worked on while in Vietnam.

In May, 1992, the DoD provided a briefing for Vietnamese officials in Washington, D.C. concerning the evidence of warehousing remains that had been provided by the mortician.

The text of the briefing included the following:

... comparison of the number and type of those remains returned to the U.S. in subsequent years with those the mortician saw reveals a significant shortfall . . . we are not able to conclude that all the remains processed or observed by the mortician have been returned to the U.S.

... Our forensics experts tell us that approximately 70 percent of U.S. remains returned by your government show evidence of long-term storage. By this, we mean they exhibited minimal bonemass loss, commingling with other remains of individuals lost in widely disparate areas, and coating with preservatives and/or disinfectants. Thus, while your government has returned many sets of remains that exhibit evidence of storage, the information available to us leads to the conclusion that there are still American remains that are readily available or easily retrievable and that could be repatriated to the United States in a very short period of time. By storage, we mean remains kept above or below ground, collected into one or more centralized facilities, or located in documented graves.⁴¹¹

It was not until September 1992 that the DIA, after constant urging by the Committee, took the mortician to CIL-HI for him to review the remains there. The Committee has not yet been able to determine from the DIA if the mortician was able to identify any of the CIL-HI remains; the passage of more than a decade could not have made this identification any easier.

Witnesses familiar with current Vietnamese approaches testified that any warehouse now is empty, and that remains probably are in private hands. Ted Schweitzer, the researcher who gained access

⁴¹¹ DIA briefing, May, 1992.

to Vietnamese archives after their denials of the archives' existence for 20 years, believes:

There is no such warehouse, sir. If at one point in the '70s or early '80s, if there were some remains somewhere in Hanoi, those remains have by now—as the officials retired who were in the program, as they went back to their provinces, various memorabilia, maybe even remains, [went] back with them.⁴¹²

According to Garnett Bell, a U.S. investigator who has worked throughout Southeast Asia on POW/MIA issues for 27 years:

My view, sir, is that there certainly was a warehouse in the Hanoi area at one time. The mortician, I think, after he defected in 1979, testified here in Congress that he processed some 452 [sets of] remains.

The Vietnamese were confronted with that information. They denied it. They indicated that they thought the mortician was fabricating. . . . The Vietnamese, I believe, came to the conclusion that we were confident that the man was telling the truth.

Since the mortician gave his testimony, they have returned to us approximately 450 [sets of] remains. Approximately 260 to 269 [sets of] remains have now been identified . . . and they have also informed us, as well as Mr. [Robert] Wallace from the VFW, that we did have a warehouse but we don't have one now, and what that indicates to me is that they have admitted that the mortician was telling the truth. They're telling us that we have given you those remains back, and the warehouse here in Hanoi is now empty.⁴¹³

Vietnamese Amnesty Program

In early December 1992, Vietnam announced an amnesty program for citizens holding Americans' remains. Vietnamese laws forbid citizens to have possession of American remains, an effort to curtail the rampant dealing in American remains by bones dealers. To encourage those who are holding remains to return them, Vietnam offered to pay a small amount for remains (to cover expenses); after Senators Kerry and Smith visited Hanoi December 17-18, the Government extended the amnesty program the reward signalled.

Early response was encouraging; — sets of remains were repatriated by publication time and are awaiting identification by CIL-HI.

Excavations

The slow process of excavating crash and grave sites is the tedious work of archaeology, as U.S. investigators sift through 20 years of soil and debris to find bones, teeth and wreckage. An example of a recent excavation illustrates the work:

⁴¹² Schweitzer testimony, Dec. 4, 1992.

⁴¹³ Bell testimony, Dec. 4, 1992.

Admiral LARSON. . . . I've had the opportunity to visit our teams out there in the field. And after watching the excavation in a very difficult mountainside out in the steamy, hot jungles of Laos in a very difficult helicopter landing zone, as many of you have experienced out there in the field, you appreciate the real enormity of the problem, but also the dedication of the fine young Americans that are out there working in the field to try and solve the fullest possible accounting of this difficult issue.

I visited our group out in Laos in the field, where they're living in a very primitive base camp there in the jungle, where they even have to fly in fuel to refuel the helicopters there because there are no facilities whatsoever in this little village, Tchepone, out there on the old Ho Chi Minh trail.

And then, they're doing an excavation with about more than 30 people, working up on the countryside, on the hillside, up in the mountains area just off the trail. Very hot, very steamy. You get leeches. You get dirt. You get a lot of humidity. They're working with local villagers up there. It's a 2½ hour hike from the bottom of the hill up to the site where the villagers are working. We fly our people in by helicopter.

They worked—I think that last thing was over 20 days. I think it was almost 30 days they were in the field there, working from the base camp, going up there every single day, working from dawn 'til dark, and then returning to the base camp.

Chairman KERRY. And how many people are on the ground in Vietnam and Laos?

Admiral LARSON. Our teams have varied in size from a low of about 28 to a high of about 63. It depends on how many teams we actually have. We shoot for about 70. We like to get five or six teams in the field at a time, particularly in Vietnam.

Chairman KERRY. General Needham, if you could relate to the committee—I was struck. I mean, most people sit in this country and they say, well, why can you not go to the crash site, or why you cannot—by God, let us just go look.

And I think it is important for people to have an understanding of the logistical difficulties and of the realities out there. I mean, when we are talking about helicopters, we are not even talking about our own right now. And the living conditions are really difficult, to say the least.

I would like you just to share with us your personal sense of that. I know you have spent a lot of time out in the field, and we talked about it when we were over there, and you were suffering from it when we were over there. I wish you would sort of share that.

General NEEDHAM. Well, first of all, Senator, let me go back to the numbers. We presently have 40 United States servicemen in Cambodia today. Less than half of those belong to the JTF because the helicopter support is coming from the U.S. Army's 25th Infantry Division. And therein

lies the support that we get from the CINCPAC components. It's virtually unlimited.

In Laos today we have 30 people, less than half, again, that belong to the Joint Task Force. The majority of the other half belong to the Central Identification Lab.

In areas that we operate on in the three countries, there are a number of considerations that have to go into the operation. First, the weather. The weather is very dependent on what we can do over there.

Secondly, the mountainous terrain that you observed is very difficult to get into. Some of the cases of extremely high altitudes—for example, a case that you're very much interested in, case 1983, which we will be going into in January, is located at approximately 7,000 feet. There's only about three months of the year that we can get in there.

A helicopter coming in to a landing zone at that location is reduced in what it can carry, and if anything happens, it has very few options. Many of these LZ's are very small; can only take small helicopters that require a large number of runs to get the force in there.

Lastly, I have forgotten over 20 years how hot it is in that country, how difficult the terrain is, how many bugs there are, and how difficult it is to support logistically when we have to carry in everything from water to food. It is extremely tough. Some of the toughest I have seen in terrain that is very hard to explain unless you've actually seen it yourself, yet our people are out there day in and day out, under very trying circumstances, trying to solve these cases.

And, lastly, as the Admiral said, when it comes to excavating a site, it's like looking for a needle in a haystack, and it's very slow, meticulous, tedious work.

Admiral LARSON. I might just add, Mr. Chairman, to that. The helicopter landing zone that I landed at this little excavation site, which is about 2,200 feet upon the mountains, at a slope of about 60 degrees, where they were doing the excavation, the villagers and our people had to walk up there and clear the helicopter site out of dense jungle and trees. And the helicopter site was smaller than this space between our two tables here, where we brought the little Squirrel helicopter in and landed, with about four people in it. So, it's very difficult to get there.

Current operations

The JTF-FA has conducted 35 excavations since it was created in early 1992 (18 in Vietnam, nine in Laos, and eight in Cambodia), plus inspecting crash or grave sites at 149 locations (114 in Vietnam, 27 in Laos, and eight in Cambodia).⁴¹⁴ In all, JTF-FA has recovered the remains believed to be those of 30 American service-

⁴¹⁴ Dec. 1, 1992 information paper submitted with testimony of Admiral Charles Larson and Maj. Gen. Thomas Needham Dec. 4, 1992.

men. Most are awaiting identification by the Central Identification Laboratory in Hawaii.

Future plans

In April 1992, JTF-FA had a full schedule of crash-site excavations for the next five years. CINCPAC Admiral Charles Larson ordered that pace increased to take advantage of recent Vietnamese promises to Gen. Vessey and the Senate delegation of better access. In Gen. Vessey's words:

... we don't know whether they hold remains or not. What I believe though, now, is that we have in our hands the keys to get to the answer to that question. I just talked to General Needham and said, you know, if you just have a quick-reaction remains team out there with Vietnamese and Americans, when something comes out of the archives that shows that so-and-so was killed and his remains were in the hands of the Vietnamese at a given time, that's the set of remains we ought to start looking for right now.

... I think going back over there and saying you're holding remains and having them say we're not holding remains is a wasted exercise. Whether they are not we don't know, but let's start with what we do know... [this man] is dead, you had his body at one time, what happened to the remains, and start from there. And I think that will get us to the answer.⁴¹⁵

REMAINS REPATRIATION EFFORTS

The Central Identification Laboratory in Hawaii (CIL-HI) is responsible for searching for, recovering, and identifying the remains of military personnel killed or missing in action.

CIL-HI'S primary duties are:

- To conduct search and recovery operations in the Pacific for World War II, Korean, and Vietnam War dead;

- To process remains and establish identification through the use of anthropological (physical structure), odontological (dental), and other scientific identification techniques;

- To accumulate and catalog information on American and allied personnel who have been listed MIA or KIA-BNR; and

- To provide emergency support world-wide in searching for, recovering, and identifying the remains of service members killed or missing in current operations.

Since 1973, CIL-HI has identified the remains of 537 U.S. servicemen—381 from the Vietnam War, 115 from World War II and Korea, and 41 from other operations. CIL-HI's current staff numbers 87 military personnel, whose focus is primarily field operations and locating records, and 16 civilians, whose focus is on identifying remains.

GAO investigation of CIL-HI

CIL-HI laboratory was the subject of scathing criticism in the mid-1980s, when critics charged:

⁴¹⁵ Vessey testimony, Dec. 4, 1992.

That CIL-HI's techniques did not meet scientific standards,
That it lacked capable staff and adequate facilities and
equipment, and

That it used questionable review procedures.

In December, 1991, the Committee asked General Accounting Office (GAO) to determine whether there had been improvements in CIL-HI operations since Congressional hearings during the 1980s sufficient to minimize the possibility of making erroneous identifications; and whether controls in day-to-day management allow CIL-HI to oversee effectively the remains identification process. In response, the GAO determined that, with some exceptions, CIL-HI has taken the steps needed to improve its accuracy and thoroughness.⁴¹⁶

The GAO was charged with examining operations designed to minimize the chance of making erroneous identifications; and with determining whether controls in day-to-day management are sufficient. As part of GAO's investigation, it sought the technical assistance of outside experts.

Summary of GAO's Findings

The General Accounting Office concluded that, on the whole, CIL-HI effectively instituted the necessary reforms. Specifically, the GAO found that CIL-HI:

Used scientifically accepted techniques;

Appointed a world-renowned, board-certified forensic anthropologist as the laboratory's first scientific director and hired other qualified staff;

Upgraded its facilities and equipment; and

Incorporated extensive review procedures to minimize the possibility of errors in making identifications.

Finally, GAO determined that critics' charges to the contrary, the long tenure of CIL-HI's commander did not affect the scientific judgments of his staff.

GAO noted several problem areas in CIL-HI's operations; DoD pledged to make the recommended corrections by March 1993.

Most troubling to the Committee was the destruction of bone fragments—mostly splinters—in 25 cases in the mid-1980s. The incident appeared to be a one-time occurrence, and verbal instructions are to keep all remains, however small or impossible to identify. At the time, technology was incapable of identifying the remains—and still is—but GAO, its panel of outside experts, and CIL-HI itself agree that options should be preserved in the hope of future scientific advances. In addition, GAO recommended that CIL-HI develop written guidelines to buttress the standing verbal directions.

Also of concern was the resignation of two top staff members, although a preliminary review suggested that their problems were not with CIL-HI's scientific operation.

Other systemic problems identified by GAO were:

⁴¹⁶ GAO Report, October 1992, GAO-NSIAD-93-7.

CIL-HI's inadequate and ineffective file locating system that resulted in difficulty finding files and, at times, finding skeletal remains;

CIL-HI's inadequate tracking system of pre-death information requests that can hinder the identification effort; and

DOD's lack of guidance on the control of remains sent to family-appointed experts—a problem that has resulted in the loss of some of those remains

Outside experts' findings

In addition to its own review, GAO convened an external panel of experts to examine the technical integrity of CIL-HI's work. Panel members were selected based upon experience, knowledge, and their lack of connection to recent affiliated work on identifying remains. The panel interviewed CIL-HI staff and others, inspected its facilities, equipment, and file review procedures.

In general, the outside experts lauded CIL-HI's current operation, citing its commitment to "maintaining high standards of professional performance, as manifested by its use of modern facilities, equipment, and analytical methods" and noted that "CIL-HI performs more in-depth analysis to establish identifications than most other forensic laboratories in the world."⁴¹⁷ They offered the following specific suggestions:

- Consolidate records and store original documents in a central file;

- Maintain radiographs;

- Modernize and standardize operating procedures;

- Improve the chain of custody of remains, including taking steps to prevent the disappearance of remains by examination by outside experts hired by families to evaluate CIL-HI's work;

- Hold unidentified remains, even where identification may be exceedingly improbable, in the hope that advances in technology will improve the chances of identifying them;

- Restrict staff comments to those areas where they are experts;

- Segregate scientific personnel from the military chain of command in order to resist the possibility of undue influence over the scientific decisions;

- Require CIL-HI's forensic pathologist to play a larger role in the identification process; and

- Grant CIL-HI's laboratory director additional authority over the scientific operation.

On-going work at CIL-HI

Much of the frustration that POW/MIA families have with CIL-HI is precisely because of its plodding approach—that it is at once slow to make identifications and lightning-quick to render them as soon as one tooth, or any other bit of evidence, supports a scientific finding. In fact, the completeness of skeletal remains is rarely as important as locating key portions. As Thomas D. Holland, CIL-HI's physical anthropologist explained:

⁴¹⁷ Ibid., Consultants' Report Appendix.

... The majority (70 percent) of remains at CIL-HI fall into the CIL-Portion category, i.e., small fragments of bone unassociated with REFNO [POW/MIA case reference number] or valid name. Most CIL Portions are undiagnostic fragments less than two centimeters in diameter. Other sets of remains are more complete.

It should be remembered, however, that the degree of skeletal completeness is correlated only weakly with identification potential. CIL-HI has in curation at least one skeleton that is approximately 99 percent complete, and yet no identification currently is possible. On the other hand, CIL-HI has effected identification based on single teeth.⁴¹⁸

Of the larger bone fragments, just 1.3 percent of the sets of remains at CIL-HI in mid-December 1992 were more than three-quarters of a full skeleton; 23.9 percent were less than one-quarter of a full skeleton; the remaining 4.5 percent were between one and three-quarters complete.⁴¹⁹

In all, CIL-HI presently has 938 sets of remains—882 from Southeast Asia and the rest from Korea—that have not yet been identified. These are not necessarily 938 different individuals, however:

The remains repatriated from North Korea are a good example of why the completeness of a skeleton is not necessarily a good indicator of identification potential. All three of the Korean War skeletons listed as at least 75 percent complete are commingled. In other words, even though the skeleton may have a skull, two arms, two legs, and the axial elements, the arms and legs may not go together, and neither necessarily is associated with the skull returned in the same box. In fact, there is an average of over 1.6 individuals represented in each of the boxes officially repatriated by the North Korean government.⁴²⁰

Discussion

The GAO concluded that CIL-HI uses techniques that exceed those used in other modern forensic laboratories. In its view, the operation has minimized the possibility of erroneous identifications and provides sufficient day-to-day management to effectively oversee the remains identification process.

The Committee notes, however, that even a fully professional forensics laboratory is going to have difficulty overcoming the obstacles that exist to the rapid and confident identification of war-time remains. The ravages of time, the incompleteness of medical records, and the limits of science dictate that progress, if it is to be as sure as we demand, will also be far slower than we would like.

⁴¹⁸ Holland letter, Dec. 21, 1992

⁴¹⁹ Ibid.

⁴²⁰ Ibid.

CONCLUSION: CONSPIRACY THEORIES AND MYTHS

Chairman KERRY. The reason I measure it against you years of service is that the minute somebody draws that kind of conclusion or says there is not evidence, I cannot find the evidence, some people in this country immediately take that person and, rather than look at the evidence objectively or rather than analyze how you may have come to that conclusion, they jump and suggest that you are there for part of a conspiracy because you have not come to the conclusion they want you to come to.

Now how do you feel with that? What is your advice to us as a former battlefield commander and general? How do you speak to that? You are obviously not a traitor to your country, and you are obviously, at least in my judgment, not somebody joining in a conspiracy. But you have sat here, after dedicating years of your life in retirement, to finding answers. And you cannot find credible evidence, correct?

General VESSEY. Thus far, we have not. That's right.

Chairman KERRY. So what do you say to those people who throw you in a conspiracy?

General VESSEY. I guess what I would say, what I've said to those who have confronted me personally, is this is not a religious issue. It's not a religious issue of faith. It is something—it's a human issue, a material human issue on this earth. And there are facts that will disclose the answer to the questions we are seeking. Let's find the facts and let the facts speak for themselves.

In the meantime, you can have all the hopes that you want. But don't turn it into a religious faith that somebody's alive when we don't know whether or not they're alive.⁴²¹

Cries of "cover-up" or "conspiracy" are used often by people dissatisfied with the U.S. Government's progress on accounting for missing servicemen. The conspiracy charge is an easy one to make, but difficult to prove.⁴²²

A prominent investigation of whether a conspiracy exists or existed on POW/MIA issues was conducted by Lt. Gen. Eugene Tighe, whose efforts are praised by the very activists who subscribe to the conspiracy theory. The Tighe Commission found:

⁴²¹ Vessey testimony, Dec. 4, 1992.

⁴²² Black's Law Dictionary, 5th Edition, defines conspiracy as:

"A combination or confederacy between two or more persons.

"A conspiracy may be a continuing one; actors may drop out, and others drop in; the details of operation may change from time to time; the members need not know each other or part played by others; a member need not know all the details of the plan or the operations; he must, however, know the purpose of the conspiracy and agree to become a party to a plan to effectuate that purpose. A civil conspiracy is: The essence of a "civil", conspiracy is a concert or combination to defraud or cause other injury to persons or property which result in damage to the person or property or plaintiff.

No evidence that anyone in DIA (or anywhere else in the U.S. government) has intentionally covered up anything about the POW/MIA issue.⁴²³

Its first conclusion was, "We have found no evidence of cover-up by DIA."⁴²⁴

For a conspiracy theory to be valid, it would entail hundreds or even thousands of people from the military services,⁴²⁵ from the very lowest-rated enlisted person (E-1) through four-star admirals and generals; and in the civilian sector it would encompass civil servants from a GS-1 through the Cabinet level. This would have been accumulated since 1973 and by this time would have encompassed in the millions of people that had access to sensitive information on the POW/MIA issue.

Gen Vessey, a widely praised 46-year veteran, former Chairman of the Joint Chiefs of Staff, the President's Special Emissary to Vietnam since 1987, and recipient of the Presidential Medal of Freedom, shares this view:

Senator McCAIN. In order for there to be a conspiracy or a cover-up of this issue, do you agree with me that it would have required the active participation of hundreds of members of the military?

VESSEY. Yes, sir. And I think that's an improbable sort of thing. American soldiers, sailors, airmen and Marines are not conspirators. It's hard to keep military secrets long enough to get the operation going along without the enemy knowing what's going on. Even at the time when we were at low ebb, we still had 100-and-some-odd people involved, and those rotated. Many of them rotated every two or three years. So I'd say the prospect or probability of a conspiracy being kept without it being blown wide open is almost zero.

Senator McCAIN. Have you ever seen any evidence of any conspiracy or cover-up?

VESSEY. No, sir, I have not.

Senator McCAIN. Did you when you were in your position as Chairman of the Joint Chiefs of Staff?

VESSEY. No, sir.

Senator McCAIN. Or at any other time in your military career?

VESSEY. No, sir.⁴²⁶

Another witness, the ranking officer in the Hanoi Hilton, was equally incredulous:

Senator McCAIN: We have had witnesses, Admiral, that there was after that a conspiracy, and that is why I was interested in the part of your statement that you remained involved in this issue for some years afterwards, that there was a conspiracy or a cover-up orchestrated by various ad-

⁴²³ Tighe Report.

⁴²⁴ Ibid.

⁴²⁵ Perroots testimony, Aug. 12, 1992.

⁴²⁶ Vessey testimony, Dec. 4, 1992.

ministrations in the intervening years. Have you ever seen any evidence of that?

Admiral STOCKDALE. No.

Senator MCCAIN. Do you believe that it would be possible?

Admiral STOCKDALE. No, I think . . . to go into it as a venture, you'd be a fool because there are so many possibilities of leaks and so forth.

Nor did Henry Kissinger place any credence in the idea:

There is no excuse, two decades after the fact, for anyone to imply that the last five Presidents from both parties, their White House staffs, Secretaries of State and Defense, and career diplomatic and military services either knowingly or negligently failed to do everything they could to recover and identify all of our prisoners and MIA's.⁴²⁷

Howard Baker, formerly President Reagan's White House Chief of Staff and Senate Majority Leader, testified similarly:

I cannot think of a single thing that suggests to me that there was a conspiracy of silence or any active conspiracy or any other kind of conspiracy . . .⁴²⁸

Others with long experience found charges of a conspiracy to be baseless as well. Maj. Gen. George Christmas:

Mr. Chairman, my experience is that most people who become well-informed on this issue have no trouble agreeing that the accounting of our missing men means obtaining information from Vietnam, Laos, and Cambodia. Those who maintain that there is some secret set of files being kept by misguided U.S. Government personnel intent on maintaining some bizarre cover-up are deluding themselves and the American people. The answers are in Southeast Asia and that is where the U.S. Government is, correctly in my view, putting its emphasis.⁴²⁹

General Leonard Perroots:

Senator MCCAIN. In order for a cover-up to be successful as has been alleged, it would have taken the active participation of hundreds if not thousands of military personnel?

General PERROOTS. Yes, sir.⁴³⁰

Maj. Gen Richard Secord:

Senator MCCAIN. Do you believe that there was any conspiracy to cover up existence of any live Americans either in Laos or anywhere in Southeast Asia?

General SECORD. No, sir, I don't. I've never seen any evidence of that.

Senator MCCAIN. Do you believe that it would have been possible, without the knowledge of a number of military of-

⁴²⁷ Kissinger testimony, Sept. 22, 1992.

⁴²⁸ Baker testimony, Aug. 12, 1992.

⁴²⁹ Christmas testimony, June 25, 1992.

⁴³⁰ Perroots testimony, Aug. 12, 1992.

ficers and enlisted people such as yourself who were in some way in the loop?

General SECORD. No. There are so many people in that loop that it would not have been possible, in my opinion.⁴³¹

And witnesses who recently have spent time in the field testified about the possibility of a conspiracy:

Chairman KERRY. I want to ask you a question. You are under oath. You are either ex-service people or people committed to this effort. But there remains at large in this country a body of suspicion about people involved in it, and it comes largely from the way it's been handled and resourced in past years I ask you this question under oath so that people can have some sense of where you're coming from.

And I want to know whether anyone here has ever seen any evidence or believes that there was a conspiracy to actually tube this or cover it up. Mr. Sydow?

Mr. SYDOW. No, sir.

Chairman KERRY. Mr. Sheetz?

Mr. SHEETZ. You've always seen me in civilian clothes. I've been in the Navy. I'm still in the Navy Reserves since 1965, so I consider myself sort of also a uniformed person. I've seen nothing to indicate conspiracy or cover-up.

Chairman KERRY. Colonel Cole?

Colonel COLE. Certainly not, sir.

Chairman KERRY. Mr. Gadoury?

Mr. GADOURY. Never.

Chairman KERRY. Mr. DeStatte?

Mr. DESTATTE. Never, sir.

Chairman KERRY. Sergeant Deeter?

Sergeant DEETER. No, sir.

Chairman KERRY. Mr. Bell?

Mr. BELL. No, sir, I don't have any indication of a cover-up, but I think we should always stress objectivity in our work.

The Select Committee examined allegations of conspiracy and heard testimony about the allegation. No witness gave credible evidence that a conspiracy ever existed on the POW/MIA issue; nearly all called the notion an impossibility and found it highly unlikely that military personnel would ever be involved.

Myths

Another difficulty in separating fact from fiction in POW/MIA efforts has been the prevalence of myths. The amount of information on the issue overall is monumental and fictitious claims often contain just enough shards of truth to make them believable. Oft-repeated myths have become popular lore in the vast collection of stories about the Vietnam War and the POW/MIA issue in particular.

⁴³¹ Secord testimony, Sept 24, 1992.

Island of syphilitic souls theory

One of the stories perennially told in Vietnam and remembered today by many veterans, is about a secret island to which were sent, there to spend the rest of their lives, persons who had contracted a dangerous and incurable sexually-transmitted disease.

The premise was that the consequences of the disease were such that society could not risk the possibility of an epidemic in the United States. The existence and location of the island needed to be kept secret, so the story goes, so people sent to the island were listed as MIA or KIA/BNR.

Logic exposes the story's flaws. Veterans were not routinely given physical examinations immediately before leaving Vietnam or upon arrival to the U.S.—foiling the island's purpose, because persons contracting a disease would carry it back to the USA undetected. As immediate "social" contact was common for many vets returning from Vietnam, the spread of any disease would have been inevitable—and yet no such disease has surfaced in the U.S. population (AIDS' origins having been traced elsewhere). Logic notwithstanding, the myth prevails to this day as an explanation for the fate of some unaccounted-for Americans.

Systematic lie theory

Other stories are more difficult to disprove, but even their defiance of common sense does not stop their spread, which in turn mainstream media, fuels these rumors. For example, one persistent story is that the U.S. Government has been bringing POW/MIAs back secretly and providing them with new identities such, as is done in the federal witness protection program or, in the alternative, incarcerating them in mental hospitals. The ostensible reason for this secrecy is presumably to avoid contradicting official policy since 1973 that all live POWs were returned home. Another theory argues that since no amputees or mentally deranged people returned at Operation Homecoming, these men have been smuggled back and are kept hidden.

Committee investigators interviewed a newspaper reporter who printed this story as fact, his sources, and others with variations of this story; they found no factual support for it. One supposed source summoned to testify, and subpoenaed, was the victim of his ex-wife's fantasies.

"Black ops" theory

Another publication printed a suggestion that 2,454 men should be added to the list of 2,265 POW/MIAs—because the additional 2,454 was the number involved in highly classified operations whose inclusion on the list of missing would have compromised the operations' secrecy.

"Crazies" and amputees theory

This belief and the belief about secretly smuggling individuals into the country and providing new identities assumes that no family members or friends would miss these men or else that they willingly participated in a conspiracy of magnitude—ideas that flout common sense. It is also belied by the testimony of Admi-

ral James Stockdale, who testified about the return of at least one amputee.

Perhaps the most persistent kind of rumor grows out of events with simple, straightforward explanation:

The opening of a bigger, permanent office with the standing in the military hierarchy needed to get things done fueled suspicions that the move was designed to silence an investigator. Garnett Bell, a key player before Hanoi agreed to U.S. terms' full-time presence in-country, remained a key player after the office was changed to take advantage of the new opportunities.

In another case, the illness of a senior Vietnamese diplomat was twisted into accusations that he had been killed trying to defect over the POW/MIA issue and blaming Congressional offices for botching the defection. The diplomat's efforts to correct the story, through a letter to the editor, were then manufactured into a story that the diplomat only wrote the letter because there was a "gun to his head."

The Committee investigated both charges and found them baseless.

CHAPTER 6: PRIVATE EFFORTS

Overview

One of the most active grassroots efforts during the past decade has been that of Vietnam War activists. They have pressed successfully on several fronts, and it is these activists, and the families of unaccounted-for servicemen that have kept the POW/MIA issue at the forefront of public attention. At times, private groups have prodded the Government to act, at times (such as at the Committee's formation) they have demanded investigations into the Government's actions. Most of these activities have been both altruistic and effective; some have been well-intentioned, but have not served POW/MIA families; and a few have been outright scams of the most reprehensible kind.

To examine private-sector POW/MIA activities, the Committee documented a wide range of public-awareness campaigns and other activities, investigated recent reconnaissance and rescue operations conducted overseas, reviewed the role of various groups in distributing photographs purporting to depict POWs in Southeast Asia after Operation Homecoming, and reviewed professional fundraising conducted in the name of various POW/MIA organizations.

Public awareness campaigns

Many private organizations engage in a range of successful public-awareness campaigns designed to educate the public about the POW/MIA issue. These efforts include rallies, marches, educational forums, newsletters and newspapers, television and radio programs, holiday ceremonies, the sale of memorabilia (such as POW bracelets and t-shirts), the creation of memorials and parks to honor POW/MIAs, foot races, and vigils. Some have funded scholarships for the families of POW/MIAs; others have sponsored